

# **Papers presented at the international conference "Participation in the Stability Pact as an accelerator of the social and economic reforms in the region"**

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**The conference has been held by the Ministry of Foreign Affairs of the Republic of Moldova, the Institute for Public Policy (IPP), the Institute for Political Studies and International Relations (IPSIR) with the financial support of the Friedrich Ebert Foundation from Germany.**

The admission in June 2001 of Moldova in the Stability Pact as a full member was for sure a very important achievement for the country, which declared the European integration as its strategic long-term goal. But it was a result of the actions mainly promoted by the Ministry of Foreign Affairs of Moldova, while other state structures were not involved so far in the Stability Pact activities. From the other side, the civil society is not familiar with the issues of the Stability Pact.

That is why the conference goal was to use the discussions in order to formulate some suggestions, which could be taken in consideration in the process of elaboration of an action plan of the more efficient involvement of the Republic of Moldova in the Stability Pact activities. From the other side, the conference was aimed to inform more largely the society about the Stability Pact's ideas.

The organizers had the intention to involve in the conference the representatives of the official structures, academia and business community, local mass-media. A special attention was given to the participation in the conference of the members of recently created Interministerial Committee for cooperation of Moldova with the Stability Pact, headed by the National Coordinator of Moldova to the Stability Pact, H.E. Mr. Nicolae DUDAU, Minister of Foreign Affairs, and also of the members of the Parliamentary delegation of Moldova to the Parliamentary Group of the Stability Pact. The head of delegation is Mr. Vladimir TURCANU, and the deputy head - Mr. Dumitru BRAGHIS.

174 registered participants and 20 representatives of mass-media (18 local and 2 Ukrainians) took part in the conference. During the conference, 44 reports were presented (10 of them by foreign experts).

At the plenary session, Mr. Nicolae DUDAU, Minister of Foreign Affairs, and Mr. Bodo HOMBACH, Special Co-ordinator of the Stability Pact, made presentations. At the same session the representatives of the three working tables of the Stability Pact took the floor.

Later on, the participants have been working in three parallel sessions, where the problems of co-operation were discussed in frame of three working tables: Working Table I - Democratization and human rights, Working Table II - Economic

reconstruction, co-operation and development, and Working Table III - Security issues, justice and internal affairs. The speakers, representatives of the official structures and of the civil society, and also foreign experts, put the accent in the discussions on the following aspects:

1. To identify the modalities of co-operation in the frame of Working Tables of the Stability Pact, using, among other, the expertise and the experience of the Balkan countries, members and contributors to the Stability Pact, and with the contribution of the representatives of some international organizations.
2. To state the problems that should be addressed to improve the participation of the Republic of Moldova in this structure for international co-operation.
3. To identify the opportunities offered by the co-operation in the frame of the Stability Pact in order to accelerate the social and economic reforms in Moldova.
4. To point out the modalities to assure the contribution of Moldova to the stability and development in the region of South East Europe.
5. To raise public awareness on the necessity of active participation of authorities and civil society of Moldova in the Stability Pact activities.
6. To develop an action plan of active involvement of the Republic of Moldova in the Stability Pact activities.

During the discussions, the participants have made a presentation on Moldova's participation in the Stability Pact, and have formulated a number of suggestions on active involvement of Moldova in this regional initiative. The conference itself and the visit of Mr. Bodo HOMBACH in Moldova were largely reflected in mass-media.

## SUMMARY OF PRESENTATIONS AT THE CONFERENCE PLENARY SESSION

**Nicolae DUDAU**, Minister of Foreign Affairs. THE REPUBLIC OF MOLDOVA IN THE STABILITY PACT (p.6)

*Considering the fact that the Republic of Moldova joined the Stability Pact later than other countries, we are now amidst a process of recuperating the opportunities missed at that particular time?*

**Bodo HOMBACH**, Special Coordinator of the Stability Pact for South-Eastern Europe. PARTICIPATION IN THE STABILITY PACT - A FACTOR OF REGIONAL DEVELOPMENT (p.9)

*The Stability Pact is the toolkit that accompanies the country in its way of European Integration?*

### Working Table I. DEMOCRATIZATION AND HUMAN RIGHTS

**Igor BOTAN**, Association "ADEPT". MOLDOVA'S LEGAL FRAMEWORK REGARDING THE RIGHTS OF THE NATIONAL MINORITIES THROUGH THE PRISM OF EUROPEAN INTEGRATION PROCESSES (p.19)

*Moldova's intention to join in a further future the European Union, an intention partially confirmed by the adherence to the Stability Pact for the South-Eastern Europe, should cause a shift in emphasis concerning the harmonization of interethnic relations...*

**Igor GROSU**, "CONTACT" Center. PARTICIPATION OF MOLDOVAN NON-GOVERNMENTAL ORGANIZATIONS IN THE ACTIVITIES OF THE STABILITY PACT (p.23)

*The degree of implication of nongovernmental organizations from Moldova is relative in comparison with civil societies from the states of the Stability Pact?*

**Ion MIHAILO**, Coordination Council of the Audiovisual Media. ELECTRONIC MASS MEDIA AND DEMOCRATIZATION (p.26)

*The present Law on Audiovisual Media with the modifications and amendments made during these 5 years manages to a large extent to regulate the activity of the audiovisual means of communication?*

**Nicolae NEGRU**, Independent Journalism Center. MASS MEDIA IN THE REPUBLIC OF MOLDOVA (p.30)

*From the legal point of view, the Law of Audiovisual should be amended in the way that the governmental party cannot change the leadership of the national radiotelevision when it desires to do so. The National Television and Radio should be transformed into public institutions?*

**Ecaterina SILVESTRU**, Ministry of Justice. THE SITUATION OF REFUGEES AND ASYLUM SEEKERS IN THE REPUBLIC OF MOLDOVA (p. 36)

*Starting with 1996-97, the Republic of Moldova faced a new phenomenon, previously unknown. Significant influxes of persons pass through Moldova, directing to the west. The majority of them are from African and Asian countries...*

## **Working Table II. ECONOMIC RECONSTRUCTION, CO-OPERATION AND DEVELOPMENT**

**Valeriu PROHNITCHI**, "VIITORUL" Foundation. EVALUATION OF INTEGRATION POTENTIAL IN THE SOUTH-EASTERN EUROPE (p.47)

*A much better option for the development of regional trade would be the option of adherence of all countries to one multilateral treaty of free trade in the region?*

**Ana BOROMISA**, Institute of Economy, Croatia. STABILITY PACT AND ECONOMIC REFORMS. CROATIA VS. MOLDOVA (p.51)

*Croatia and Moldova, both, have institutionalised their relations with the EU. The agreements are different?*

**Dr. Alexandru MURZAC**, UNDP Moldova. THE EXTENSION OF THE EUROPEAN UNION TO THE EST - SOME IMPORTANT ISSUES THAT THE REPUBLIC OF MOLDOVA SHOULD CONSIDER (p.55)

*The affiliation to the EU as an associated member is in the best interests of Moldova as a small country in the process of "adaptation" to the "challenges" of globalization and will improve the external position, security and stability of Moldova...*

**Alexandru MIJA**, Ministry of economy. THE DEVELOPMENT OF CROSS BORDER CO-OPERATION WITHIN EURO-REGIONS (p.59)

*Until now important steps were made by common actions in the fields of culture, education, healthcare, sports, tourism, youth, information exchange and local public administration. However, essential changes in economic collaboration have not been made?*

**Nicolae STRATAN**, Deputy Minister of Ecology, Constructions and Territorial Development. THE POLICIES OF ENVIRONMENTAL PROTECTION OF THE REPUBLIC OF MOLDOVA (p.64)

*The main objective of the environmental policy is the prevention and the reduction of the negative impact of the economic activity on the environmental factor and natural resources, in the context of durable development of the country?*

**Dr. Ilie TIMOFTE**, Ministry of Energy. ABOUT SOME PRIORITY DIRECTIONS OF DEVELOPMENT OF ENERGETIC INFRASTRUCTURE OF THE REPUBLIC OF MOLDOVA ON MEDIUM AND LONG TERMS (p.72)

*The power sector is affected by the gap between the demand and offer, by the insufficiency of domestic and external investments and by the ruination of the production potential...*

### **Working Table III. SECURITY ISSUES (JUSTICE AND INTERNAL AFFAIRS)**

**Gheorghe POPA**, Deputy Minister of Defence. THE REFORM OF THE SECURITY SECTOR (p.81)

*The development of the international military collaboration contributes to the avoiding of the isolation of our country from the processes in the sphere of defense and consolidates the national security?*

**Alexandru GRECU**, Chief of the Main Staff, border guard troops. BORDER CONTROL FOR ASSURING NATIONAL SECURITY (p.87)

*The main pressure on behalf of illegal migration goes to the border guard services, a characteristic fact for any country including ours?*

**Tatiana MLECICO**, General Director, Department for Interethnic Relations. RELATIONS BETWEEN THE STATE AND THE NATIONAL MINORITIES AND DIASPORA (p.89)

*The policy of Moldova as a sovereign and independent state is oriented to create conditions for the real equality of all nations?*

**Lidia LOZOVANU**, Ministry of Justice. JUDICIARY REFORM IN THE REPUBLIC OF MOLDOVA (p.95)

*We have to mention that the scope of the judiciary and law reform to a great extent has been accomplished, but one have to eliminate the noticed deficiencies?*

**Tudor OSOIANU**, University of Criminology. THE LEGAL AND INSTITUTIONAL FRAMEWORK REGARDING THE ANTI-CORRUPTION INITIATIVE OF THE STABILITY PACT FOR SOUTH-EASTERN EUROPE (p.104)

*The Department for Fighting against Organized Crime and Corruption (DFOCC), conceived and intended for the elucidation of the cases of corruption in the superior layers of the state power from the Republic of Moldova, has not achieved its goals?*

**Jana COSTACHI**, Association of Women Lawyers. TRAFFIC IN WOMEN WITH THE INTENT OF SEXUAL EXPLOITATION (p.109)

*At the present time there is no viable national strategy oriented towards the prevention and eradication of this social vice, nor are there consolidated efforts on behalf of the related institutions?*

**Efim OBREJA**, "Transparency International - Moldova". CONSOLIDATION OF NATIONAL CAPACITIES FOR FIGHTING CORRUPTION IN THE REPUBLIC OF MOLDOVA AND THE NATIONAL "ANTI-CORRUPTION" PROGRAM (p.121)

*If we consider that in the Republic of Moldova there are approximately 600 large tax payers and about one third of them frequently pay bribes (we suppose 10 times a year in average), then the number of bribery cases would constitute about 2000, and if we consider the number of tax-payers on January 1st, 2000 recorded at the territorial state fiscal inspectorates, we can easily compute that the number of bribery cases solely due to this factor constitutes about 1.5 million. Thus, those about 130 bribery*

*cases recorded by the legal institutions in 2000 are practically nothing in comparison with our calculation?*

## **THE REPUBLIC OF MOLDOVA IN THE STABILITY PACT**

Nicolae DUDAU, Minister of Foreign Affairs

Ladies and Gentlemen,

It is a pleasure for me to open this International Conference that the Ministry of Foreign Affairs organized in tight collaboration with the Institute for Public Policy, Institute of Political Sciences and International Relations, with the support of the Friedrich Ebert Foundation. With this occasion I would like to express them our sincere gratitude.

I hope that the works of this conference, as the topic suggests, will contribute to a better understanding in our country of the objectives and perspectives that this regional process opens for the Republic of Moldova in the context of promotion of socio-economical reforms.

Particularly I want this conference to be also beneficial for the members of the Inter-ministerial Committee, instituted recently through a special decision of the Government with the purpose to coordinate internally the activities related to the Stability Pact.

I have the exceptional pleasure to salute the participation of Mister Bodo Hombach, Special Coordinator of the Stability Pact in this conference. I would like to thank him for the fact, that in spite of his busy agenda, he responded to our invitation to participate in this event together with other experts from his Office.

I would also like to salute the presence at this conference of experts and representatives from the contributing countries, international organizations and nongovernmental organizations that support the regional efforts in those three realms of the Pact.

Ladies and Gentlemen,

The evolution experienced by the Pact, particularly after the first Regional Conference for Financing, is encouraging. The workshop reunions, as well as many other reunions, have committed the states from the region to a political dialog and to a beneficial regional cooperation. We are happy that the majority of the projects of those three workshops have already started and that the assumed commitments get more and more substance. An important reference point of this cooperation was Memorandum of Agreement on Liberalization and Facilitation of Trade, signed on June 27<sup>th</sup>, 2001 by the seven states from the South-Eastern Europe, joined by Moldova through a Declaration of Intent.

The recent regional conference held in Bucharest proved once again the support and solidarity of the international community offered to the governments of the Eastern-European States in their efforts of reconstruction, development and promotion of reforms. In this conference, international donors have declared their willingness to finance a new series of projects in the field of infrastructure, whose cost is about \$ 2.4 billion.

Of course the expectations of the peoples from the South-Eastern Europe are big. However, it would be naïve to believe that the Stability Pact, with all its indisputable virtues, could solve the problems from Eastern Europe in only two years after the launch. Not even Marshall Plan in its time, managed to do more for Western Europe in such a short period.

The Republic of Moldova joined the Stability Pact being convinced of its success and is decided to become an active participant of the process. In order to accomplish this objective, our country has taken a series of important measures with the purpose to put to maximum account its new status within the Pact. Among these are the actions taken by Moldova internally with the view of consolidation of institutional capacities for participation in the activities of the Pact, including consolidation of the statute of the National Coordinator and the creation of Inter-ministerial Committee, directed by the National Coordinator. In the future we intend to create an Action Group of nongovernmental organizations, consultative body intended to represent the civil society, because we are confident that the plenary participation of the country in the Pact can be achieved only with the active involvement of the civil society. Especially in the situation when many projects of this process are destined exclusively for the NGO's.

Considering the fact that the Republic of Moldova joined the Stability Pact later than other countries, we are now amidst a process of recuperating the opportunities missed at that particular time.

We have already launched several activities within those three workshops that you will be able to get to know in detail from the informative materials that will be distributed. I would like only to evoke the adherence of our country to the Memorandum of Agreement regarding the Liberalization and Facilitation of Trade and to express with this occasion my satisfaction that the solution was found to give Moldova an opportunity to join this significant bilateral process. Now we must actively involve in the accomplishment of the objectives of the Memorandum, including beginning relevant negotiations in order to sign the Agreement of free trade among the member-states.

We are also satisfied that the list of the projects presented at the Regional Conference in Bucharest contains two important projects regarding the Republic of Moldova, estimated to about 36 million Euro. It implies modernization/construction of the Chisinau-Giurgiulesti highway and our inclusion in the regional project regarding the facilitation of trade and transportation. In this context, we hope that the other presented projects that are equally important to Moldova and correspond to the formulated requirements, will find support among the donors.

Talking about the infrastructure in the fields of transportation and energy, I would like to emphasize that this is a strategic objective for our country, implying its adjustment to the EU infrastructure. We are profoundly interested in the studies and strategies elaborated by the European Commission and the international financial institutions and we hope that a political decision will be made in this sense so that Moldova is also included in these strategies, enjoying the same treatment that the other beneficiary countries have.



Ladies and gentlemen,

The strategic objective of the Stability Pact is, as you all know, the integration the South-Eastern countries in the European structures in order to assure stability and security in the continent. I would like to reaffirm with this occasion that the Republic of Moldova supports without reserves the objectives of the Stability Pact and is determined to respect the principles and the norms that lay at the basis of its document of constitution. Meanwhile, we realize perfectly that the Stability Pact is not a one way road. This is why, having the European integration as priority of our foreign policy, we are decided to intensify our efforts in the consolidation of democracy, viability of market economy and social stability.

I profit from this occasion to express my satisfaction with the openness toward the Republic of Moldova that the European Union shows lately. We hope that our will to be included in the Process of Stabilization and Association will be examined in the same favorable context. We count in this sense on the support of the member-states of the European Union.

In conclusion, considering the fact that the mandate of Mister Bodo Hombach, Special Coordinator of the Stability Pact, is coming to an end, I would like to sincerely thank him for his fruitful activity in this position. I would also like, on behalf of the authorities of the Republic of Moldova, to thank Mister Bodo Hombach for his efforts and abnegation in supporting the inclusion of the Republic of Moldova with full rights in the Stability Pact

Thank you for your attention.

## **PARTICIPATION IN THE STABILITY PACT - A FACTOR TO RELAUNCH THE ECONOMY**

Bodo HOMBACH, Special Coordinator of the Stability Pact for South-Eastern Europe

Mister Minister,  
Ladies and Gentlemen,

I would like to thank you for the invitation to participate at this conference, the organization of which proves the commitment and the interest of Your country in the activities that are taking place within the Pact.

I would like to make a few references to the principle that served as a conceptual basis for the launch and well-functioning of the Stability Pact. In formulating this principle, I started with the idea that peace and stability lead to the revival of the economy. On the other side, we all realize that peace and stability is impossible without an economic revival.

Thus the notions: consolidated institutions, democratic structures, social transparency, economic restructuring and domestic and external security are interrelated. These three topics, specifically democracy, economy and security, are equally important within the Stability Pact. They can not be separated one from the other. That is why these workshops (democracy, economy and security) are complimentary. They must be viewed as interdependent and everyone should realize this fact. At the time when the Stability Pact was conceived, 23 countries brought their contribution to the elaboration of its strategy and concept, among them were the countries of the European Union, Switzerland, Group of eight (G-8), that includes countries like United States of America, Canada, Russia, Japan, etc..

In the activity of the Stability Pact we benefit from the experiences accumulated by the countries of the European Union in the period that followed the World War II. In the minutes that follow, I will try to mention just some of the aspects that I consider extremely important.

The first is related to our experience regarding the European Integration. We have all learned that it's impossible to be successful in a situation when right from the start of cooperation we try to accomplish major objectives. It would be correct to begin with a practical approach.

After the War the cooperation in Europe started among four states that joined their efforts in a very practical field. They started with coal and steel and then they moved on to road constructions. The conclusion we must come to could be formulated by using one of Schumann's quotes, that says that "let's do now what is possible to be done, and what can't be done now – we'll do it later!" It's a very pragmatic phrase and the idea is that we should not wait until everybody realizes the importance of this process, but start with practical issues. In another famous phrase, the same Schumann was saying: "we should first become useful to each other, we can love each other later!" For us the idea is that we must create the necessary links in infrastructure, build roads and bridges, create a common security system, cooperate in many other

domains and through these practical forms we will be able to access new strategies. This is the objective of the Stability Pact.

The Pact does not propagate something that some people conventionally call “Conference of Balkans”. It does not intend to clearly define some frontiers that would mark a region to benefit from our support. Our strategy says that borders are not so important. Cross-border cooperation in all its practical forms is what deserves full support, contributing in a major way to the consecutive reconstruction of the region.

The second aspect, that takes my thoughts back to the post-war events, is related to the Helsinki process that elaborated the conceptual basis for the Organization for Security and Cooperation in Europe. The eldest remember how democracy, security and economy were conceived as the three main pillars of cooperation. As you notice, these topics were addressed today at the workshops of the Stability Pact. At that time it was said that things will not go further than declarations or documents. Many people even made jokes about that. However, the Helsinki process managed to change the world more than any other processes in the history, because it created that important feeling of vocation.

Documents do not mean only papers, but also some commitments. With these specific commitments we worked in the future. The actions that gave substance to commitments we made have created the necessary dynamism in the region. This is the very principle that guides us in cooperation within the Stability Pact.

I could enumerate here many, very many important agreements signed within the Stability Pact. One of them was also mentioned by the Mr. Minister. It is about the Memorandum on Facilitation and Liberalization of Trade that implies the signing of agreements of free trade among the signing countries. Based on these agreements a free economic zone will be created in the region with over 55 millions of consumers. Of course this is a very important event. Within this program, a plan with terms of reference was elaborated that allows the supervision of the way this process evolves. We also have a map of investments, so called “Investment Compact”. It is a program that functions with the support of EOCED whose objective is to increase the attractiveness of the region for the foreign investors. Here we are talking about aspects relying on the fiscal system, on the administrative barriers, customs formalities and many other things that are extremely important for the elimination of the barriers that stay in the way of direct capital investments. The ultimate objective of the “Investment Compact” is the intensification of the process of attraction of investments to the region.

We also have an “Anticorruption” initiative which is focusing not only on South - Eastern Europe, but also on the industrialized countries. This initiative is important for both parties because of the simple fact that corruption always has two subjects: transmitter and receiver. As a result, fighting corruption must be also oriented in both directions.

There are initiatives of fighting against criminality and terrorism. They are numerous. Time does not allow me to mention all of them. All of them are simple documents, papers. They can become viable only when those who signed them will respect their

commitments, when forums are created for their implementation, when the network necessary for accomplishment of the objectives is created. Of course this process must benefit from an adequate expert advice while the necessary control is assured.

Mr. Minister mentioned in his speech that the Stability Pact is not a one-way road. In this context I would formulate the philosophy of the Stability Pact in the following way: The states from the region are required to promote reforms and to adjust themselves to the European standards. These requirements must be interpreted as a perspective of development and as a help offered to oneself. The countries of the European Union and the Group 8 are to support in a generous way these reforms. This is the philosophy of the Stability Pact. The Mission Coordinator is about taking into account these two commitments of the sides. It is in fact the contribution that I personally had being in the position of Special Coordinator in the last two years

At the last conference held in Bucharest I noticed that the Balkan countries indeed have fulfilled the engagements. Their reforms are obvious. The regional collaboration among these countries is a quite efficient and good one. The most remarkable success story of the Stability Pact is exactly this regional collaboration. I want to give you one example:

Two years ago I was visiting an important country from the region, whose representative is present here. In a discussion with the Prime Minister of this country, I heard the following statement: "Mr. Special Coordinator, we are not dealing with projects that are presented by two or three countries." I thought it was important that projects be presented by more countries. Then this prime-minister told me the following: "But how to accomplish this? We do not even know our partners. We can present only our projects." Then I made a phone call to Brussels, one to my Government, and I asked how they liked such an approach. The answer was that, in fact, such projects can be proposed, because they also relate to the concept of the Stability Pact. Then, on the 23<sup>rd</sup> of December of last year, all the ministers of Finances from the region met in Thessaloniki to discuss the presented projects. Each was decided to promote its own project. At the beginning this process was an extremely difficult one. After several weeks, people started to have bilateral or even regional meetings in different capital cities from South-Eastern Europe. In this way a good regional cooperation was achieved, that functions naturally, without necessarily guiding it.

The Romanian Government chose regional cooperation as fundamental activity during the OSCE Presidency from this year. Today the regional cooperation is quite developed. This fact is proven by the regional processes from this part of Europe. The South-Eastern Europe Cooperation Process (SEEC) has become, for example, one of the most important contributors in the Stability Pact. On the other hand, the European Community, especially the European Union, sees in the regional cooperation the guarantee of success in the development of the South-Eastern Europe. "Balkanization" is associated with destruction, while "Europeanization" is associated with regional cooperation. I want you to keep this idea in mind.

Regional cooperation is a strategy of the European Union. You probably know that there was an initiative that was interpreted as a intention to create a new South-Eastern European Union in parallel with the European Union. This is a trick of the European Union.

This kind of approach is extremely dangerous and I am happy that in Brussels, I was personally assured by Commissar Ferhoihen, as well as by the Presidency, that regional cooperation is viewed by the European Commission as a requirement for the integration. The desire to collaborate with the neighbors represents the base of what we call today "European competency." The same regional cooperation also demonstrates the integration capacity of a country. And I appreciate a lot that this form of collaboration has become a priority in the politics of the countries from the region. It is great to know that the Government of the Republic of Moldova will concentrate all the efforts for the integration of the country in the South-Eastern Europe Cooperation Process (SEEC), a very important sign for the European Union. As I was mentioning before, it is not a one-way road.

Talking about the reforms from the region, I would emphasize the "promises" aspect. At the conference held in March, last year, the Pact got 2.4 billion Euro from its donors. We approved at that time 240 projects. All of them are present in the net, thus assuring the transparence and the necessary control. Out of 240 projects, 224 have already been launched. They are being implemented. You will say: "yes, after one year and a half it is normal."

I must confess that the biggest problem that we are facing is the bureaucracy and the postponement of the implementation of the projects. The terms that the European Commission considers to be normal for the implementation of the projects – 8-9 years, are simply unacceptable for us. The period it takes to implement our projects should not exceed 1.5 years. This demonstrates the efficiency of our collaboration with the donors and proves the credibility of the Stability Pact in the sense of making both sides more sensible: of the donors and of the beneficiaries. Fighting against bureaucracy is in fact another objective of the Stability Pact.

The Stability Pact should be viewed as a political framework and not as an institution for implementation. We collaborate with the structures that have a vast experience in specific fields and that help us elaborate in a conceptual way the programs of collaboration from the region. OSCE is our partner in the security issues; EOC provides assistance for the "Investment Compact" program. The bilateral assistance is also extremely important. It happens very often that donor countries take responsibility to fund a certain project. The European Bank for Investments is highly active in this process, being involved in the activities of the Pact more than any other financial partner. The essence of the Stability Pact resides in collaboration with those structures that can bring expertise as well as necessary resources necessary for the process of regional collaboration. The World Bank together with the European Commission are the institutions that play a central role in identifying these structures. The Pact in itself is just a political and instrumental framework. It is not a machine that functions automatically and that automatically produces something. The Pact is an instrument that must be used in the most diverse forms of collaboration. Moldova must see in the Stability Pact an instrument that can show the International

Community, and especially the European Union, that Moldova on its way to Europe fully uses all the forms of practical collaboration in the region.

A highly appreciated thing is Moldova's collaboration in the field of security and in fighting cross-frontier criminality in the third workshop. In what concerns the other workshops, I would say that there's room for a better performance.

The Stability Pact is the toolkit that accompanies the country in its way of European Integration. Personally, I believe that all the countries from the South-Eastern Europe have the perspective to contribute to the creation of a common European structure and to meet in the future in this European House. Europe must be viewed as a tiny light at the end of the tunnel, whose purpose is to show the right way and to serve as motivation for overcoming the imminent obstacles.

A couple of days ago I was talking to the Israeli Prime Minister, Shimon Peres, person I worked with at the "Aman" process eight years ago. It was a process intended to elaborate some mechanisms of economic collaboration among Palestine, Jordan and other countries from the Middle East. It was a tentative to create stability in the region. Shimon Peres was saying then that the real problem was the Balkans and not the Middle East. And a couple of days ago I was telling him: "Look how it happens. In Balkans the situation comes to normal and in the Middle East more and more problems appear." And then Shimon Peres answered: "the Balkan countries have a hope, a light in front of them, a perspective if you want, as to us from here, in the Middle East we do not have this motivation." What I am trying to say is that countries from the South-Eastern Europe have this light of hope in front of them. Only their speed of moving towards this target is different. Obviously that Hungary, Slovenia, Poland are more advanced in this process. As to what we are trying to avoid is the feeling of rivalry in its negative manifestations, in sense that "it's better when the others are doing not so good." This mentality should not have a right to existence. This process must be organized in such a way, that the progresses are made in common and focused on the avoidance of conflicts of any kind.

And please allow me to say that the conflict that emerged this year in Macedonia has a good side. When I am telling you this, I think of the fact that here, due to the international intervention sustained by the efforts of the officials the control over the situation was established. The terrorists did not manage to accomplish their plans and I am confident that they will not manage to do it in the future. The situation from Macedonia demonstrated that peace in this region is possible with the condition that there is the necessary political will and support and the relevant support on behalf of the International Community.

I am happy that you show interest in the details of collaboration within the Stability Pact, I am open for discussions or questions. I would like to ask you not to view the Pact as a money machine. Yesterday during lunch I was discussing this subject with the Deputy Minister of Foreign Affairs and at a certain point he told me that in fact happy with no money are only the rich. It is true. Allow me to express some of my reflections regarding this matter: 2.4 billion Euro from last year, 3.4 billion from this year, together – 5.8 billion Euro. As you can realize we are talking about a large amount of money. However, it is not enough to solve all the problems. Plus, many of these problems money can't help to solve. One who believes that it is possible to

solve any problem with money will soon realize that this much money doesn't even exist in this world. Germany donates each year 100 billion Marks to the reconstruction of Eastern Germany Lands and anyway it doesn't function well. This is why we consider that this money must be activated and not consumed. Its purpose is to intensify the reforms. Money shouldn't replace a country's economy but create the necessary conditions for the restructuring of the economy. Those with the important mission to restructure the economy must be the entrepreneurs, investors. And our duty is to create the necessary conditions for them. Money cannot replace reforms. This is why we must view the financial resources that we have as a mean of activation, motivation of reforms. It's also about a political process, if you agree. It is wrong to have the conviction that "tomorrow we will have a new road" We must have a cross - border collaboration. A power supply network must be again considered as a regional collaboration and not as a money donation.

At the regional conference from Bucharest each country assured us that it possesses the potential required for the establishment of the center of this power supply network in their specific country. This thing proves that South-Eastern Europe has the required capacities. Something that South-Eastern Europe doesn't have is the network itself. This is why we thought we would fund this network and not the capacities. The projects you presented will be successful only when the donors will recognize that they are regional, targeted at regional collaboration with obvious regional impact.

I am truly happy that Moldova officially belongs to the family of the Stability Pact, that it has created the necessary instruments for collaboration and that there are so many people who wish to make efforts for the collaboration within the Stability Pact. And I am grateful to all of you for this.

Questions addressed to the Special Coordinator of the Stability Pact for the South-Eastern Europe, Mr. Bodo HOMBACH and his answers

**1. What are the chances for the Republic of Moldova to develop its relations with the European Union and eventually be co-opted in the EU Process of Stabilization and Association?**

To what concerns the rehabilitation of the economy, indeed a country could ask for assistance, one could ask for money, however, to what concerns, for example, fighting crime, smuggling, fighting all the other negative processes, Moldova would have to demonstrate that it acts in a European way, that it has a European vocation in this sense.

This is why my suggestion would be that at all the workshops (here we have persons that would be involved in collaboration with these workshops), so, my suggestion is that in all these workshops it must be stated very clearly that Moldova acts in an European way and that it belongs to these processes and then, of course, new doors will be opened in other fields of collaboration. And then the International Community will invite Moldova by itself to other realms of collaboration. This is a mechanism that conditions itself, these are independent things. So, do something and the answer will come from the International Community.

It is important that a country demonstrate, with clear signals based on specific deeds, that it truly desires this integration. If it is declared from the start: We want to be part of the European Union, then we find ourselves in a profound deception in a country conditioned by some exaggerated expectations. I call this thing the “Management of expectations”. So, if we do not want to transform this spiral of expectations into a spiral of deceptions, then we have to avoid making promises like “Tomorrow paradise will fall on our shoulders”. It is very important to equilibrate the expectations and implementations. My proposal is: first of all one should work with perseverance on the promotion of reforms and this process should be viewed as a political virtue of the present government. In fact, in the speech of the Minister of External Affairs I noticed these nuances.

**2. At the Regional Conference held in Bucharest, in the list of accepted projects for financing there were two projects for the Republic of Moldova. One of them will be sponsored only in proportion of 50 percent. In your opinion, what would the Republic of Moldova have to do in order to make the presented projects more attractive?**

The projects presented in Bucharest were very good, I can't and I don't want to criticize them. Yesterday, during the discussion with the President and with the Minister of Transportation, I have ascertained myself that there were some problems with financing so I got in touch with the World Bank from Washington right away. Therefore, we will invite the director of the Workshop II to Moldova in January or maybe at the end of this year, in order to discuss the projects of infrastructure for the meeting from February in what concerns the financing of the projects of infrastructure, and I truly hope that with his help these projects could be improved. To what concerns the financing, I believe that the things will become clear because the institutions will keep their promises.

I want to say an important thing: I believe that it is important that the communication, the dialog be permanent, so we don't have to wait if certain problems arise and we don't have to wait until the coordinator comes to Chisinau. I proposed a daily dialog with my experts in the case that a problem is identified.

I have to tell you honestly that the essence of bureaucracy lays in the fact that a bureaucrat is happy when his predecessor made a written mistake. This is why because of this bureaucracy the projects often stay months in the bureaucrats' drawers and are not examined. However, I want to tell you that the international bureaucrats are absolutely invulnerable, they are very well trained in this sense this is why they find the mistake right away at the partner or at the colleagues. This is why I am asking you very much, when a problem is identified, do not hesitate to signal it to us, rapid communication is very important.

What happened to your projects happens with all the projects all the time. Had I known earlier about what happened to these projects, I would have called a long time before to the World Bank and I would have solved the things earlier. As long as we have no idea about what is happening we cannot act. Therefore, I am asking you very much – have a permanent exchange of information and a permanent dialog with my experts. Nothing has to stay in the drawers.



The projects for the February conference must be arranged according to their priority. In the case that you will show up with eleven projects, there is the danger that none of them is accepted. You know, they will cut the cake there and everybody wants a piece. I would suggest you to choose 3-4 projects out of those eleven, the most important and the most attractive to you (in my opinion, the attractive ones would be the projects related to energetic security of the state, as well as projects related to cross-border collaboration). To what concerns the projects related to the measures of rehabilitation of the streets, we will clarify the things very and very soon.

**3. During your speech one could sense a lot of optimism regarding the role of the Stability Pact in the reconstruction of the region. What is your optimism based on? I pose this question thinking about the initiative from the German Bundestag to create a South East European Union that would function separately from the European Union. From what we know, your mandate of Special Coordinator for the Pact expires soon. And, in this context, one second question: how secure is the future of the Stability Pact?**

The fact that my mandate expires is a personal decision and the Stability Pact will function in the future, this thing was decided upon and confirmed by the Ministers of Foreign Affairs in Brussels two weeks ago. To what concerns the rumors related to the functioning or non-functioning of the Stability Pact, I ask you to accept them as rumors. There are always many rumors, there is always much talking but in the end these are very good decisions. The decision of the Ministers of Foreign Affairs from Brussels cannot be contested. I know what the newspapers write about and I know that these things are not relevant, you have to get used to this talking and not become impressed by it. The Stability Pact will have a coordinator also when I leave and the coordinator will have at the disposal the 3.4 billion euro decided upon within the Regional Conference from Bucharest, so he or she will have what to work with.

You have to see that the Stability Pact is in fact a very small institution, there are 36 people including 21 diplomats. When compared with other institutions, the Stability Pact is a very small, flexible and functional institution. There are other institutions in Brussels that would like to perform the activity of the Pact in a different way, this is why you shouldn't let yourselves be influenced by these rumors. As about the fact mentioned in the Bundestag, there is a very serious confusion in the middle conditioned by the last reports. Not a single position from the Bundestag presented an initiative regarding the cooperation in the South-Eastern Europe. And then, the reports that have been accomplished subsequently created this confusion – that a new South-East European Union is emerging that would function in parallel to the European Union. Therefore I clarified these things and I clarified them with the authors of this initiative who told me that the idea of this document is the consolidation and strengthening of the regional cooperation among the South-East European countries, thus creating a South-East European mentality that would be concentrated on the preparation of the region for the adherence to European Union. The authors of this document have personally assured me that they did not mean a new South-East European Union, instead they meant their orientation towards a common union aimed to cross-border regional collaboration in the South-Eastern Europe preparing the region for the adherence to the European Union. And I salute this idea because those who aspire to Europe must think in the European way. And those who say that they

are doing well and are happy when the rest of them are doing bad, those are not Europeans.

I believe that the regional collaboration will create this European mentality and what you mentioned about the creation of a Union that would function separately is indeed a severe confusion. Why am I optimistic? All that we discuss about the South-eastern Europe can be turned to a question without answer - if the glass is full...

Two years and a half ago the regional cooperation was very difficult. A prime-minister from the region once even told me that I would have been demented if I thought that, in fact, the cooperation among some 3-4 countries would be possible. And look how well the agreements of free trade are functioning, with a common fight against the cross-border crime, with the fight against terrorism. In the past (two years and a half ago), when we still had Milosevic, Tadjman, the situation was rather awkward.

Kosovo was exporting violence and now democracy is being exported. We have democracy in Croatia, we have democratic elections in Kosovo. Definitely there are many unsolved questions, however we have had so many positive processes in these two years and a half that if I try to make a review after these two years and a half when I say that the glass is half full I am not being optimistic, I am being realistic. So, the realism is the basis of my optimism. Of course in all existent problems. But I think that we have developed some efficient mechanisms for the solution of the problems without violence. Believe me, I know old Europe very well and even the collaboration from this old Europe is not free of problems. Many conflicts existed there as well but we have learned to solve them without violence. Of course a region without conflicts is not possible but a civilized solution of these problems is possible, this is the very base of my optimism.

**4. The question that I want to address you is: what shouldn't the Government of the Republic of Moldova do to increase the efficiency in the collaboration with the regional and sub-regional structures, in particular with the Stability Pact. The context of the question is related to the recent evolutions in the Republic of Moldova, such as the declarations of the Speaker concerning the opportunity of association of our country with the Union Russia-Byelorussia, a new territorial-administrative reform that contravenes the European Charter on the autonomous exercise of the local powers, etc. Until present I have not heard the Government declare that the regional cooperation would be a priority in its foreign policy. Returning to my question, I would like to address the question from the beginning: What shouldn't the Chisinau authorities do in order to increase the efficiency of their collaboration with the Pact?**

I am happy that in our collaboration with the Stability Pact we also involved the parliamentary dimension. Yesterday I was satisfied to learn the fact that the Parliament voted the creation of a group of cooperation with the Stability Pact. In this way the controversies of political nature and the diverse approach to the priority of the foreign policy indeed plays a significant role. This is the very essence of democracy. As about me, I consider that the collaboration among states should be intensified not only through political dimension, but also through the economic, cultural ones. I shouldn't offer you suggestions now nor do I have the right to judge about the

decisions of your Government. Ok, I accept that there are certain controversies with the regard to Governmental priorities, I was a deputy myself and I know that there have always been controversies. However, if these did not exist, there would have been no progress. So, I will not start judging your priorities.

## **MOLDOVA'S LEGAL FRAMEWORK REGARDING THE RIGHTS OF THE NATIONAL MINORITIES THROUGH THE PRISM OF EUROPEAN INTEGRATION PROCESSES**

Igor BOȚAN, Association "ADEPT"

The legal framework from the Republic of Moldova which directly or indirectly relates to human and minorities' rights comprises more than 30 documents. Among them, besides the Universal Declaration of Human Rights, we find about 10 international documents: 8 conventions, 2 pacts. The Moldovan Constitution, adopted in 1994, guarantees the fundamental human rights and the rights of the minorities which are stipulated in international documents. Furthermore, Article 4 of the Constitution establishes the priority of international settlement of those stipulated in the national legislation. Among these we find 5 laws, 2 presidential decrees and about 11 governmental decisions. 2/3 of the national legislation regarding human rights and the rights of the minorities had been adopted prior to the adherence of Moldova to the Council of Europe in 1995. This makes it obvious that the necessity of international recognition and the integration in the European structures have served as an important stimulus for the adjustment of the national legal framework to the international standards in the relevant realm. From this perspective the processes of European Integration are fundamental for the political stability in Moldova. After 1995, the European integration factor has served as a significant stimulus for the development of the legal framework regarding the rights of the minorities. In this sense the most important documents adopted after the adherence to the Council of Europe have been *Framework convention regarding the protection of national minorities*, ratified on 22.10.96 and the Law regarding the rights of the persons belonging to national minorities and the legal status of their organizations adopted on July 19<sup>th</sup>, 2001. Our conviction is that Moldova's intention to join in a further future the European Union, an intention partially confirmed by the adherence to the Stability Pact for the South-Eastern Europe, should cause a shift in emphasis concerning the harmonization of interethnic relations.

Anybody can realize that in Moldova the legal framework regarding the human rights and the rights of the minorities is a rather complex and satisfactory one. This is why the prior emphasis on providing and guaranteeing certain rights in present conditions should be changed and should emphasize the possibility of the authorities and the capacity of potential beneficiaries to accomplish these rights. This means that the things must be more pragmatic. It is important here to remember that *the devil hides in details*, and these come up only when we try to apply the wonderful paradigms in real life.

The experience of 10 years of independence has proven that the sole adoption of an adequate legal framework is not sufficient for the improvement of interethnic relations, it requires something else. This *something else* is related to the perception of the domestic and external political climate by the citizens belonging to different ethnic groups. It is also logical to be this way as *the birth* of the Republic of Moldova as a sovereign and independent state was accompanied by a series of *traumas* caused by ethnic conflicts. From this viewpoint we have to consider that regardless of political color of the government, there could always be suspicions on behalf of one side or the other regarding the promoted policies. This obviously refers to the legal framework as well. This is why it is extremely important to observe the way this legal

framework is perceived by the political leaders or the leaders of opinion, who shape or influence the public perception of the ethnic groups. It is interesting to notice that the opinion polls accomplished in the last years show that in the most cases the perception of problems of political, economical and social nature by different ethnic groups has a tendency to meet. At the same time, the approach to the same problems by different media or political parties is extremely polarized. On one side, as I have already mentioned, from the opinion polls it is noticeable that at the level of simple people there is a natural tendency to perceive things more uniform, and on the other side from the mass-media and the behavior of political and intellectual elites we notice the tendency of maintaining polarized perceptions, particularly concerning problems of maximal sensitivity where emotions usually prevail over rational approach. It is obviously suitable for the politicians and opinion leaders to form their political niches this way. This thing can be easily sensed at the level of simple people, especially when talking about linguistic problems and even about the vector of political integration in the common western or eastern structures, it becomes obvious when we look at the election results, particularly at the reactions of electors who belong to national minorities that live compactly to the messages of political actors and to the surveys. The latest survey accomplished by the Institute for Public Policy (IPP) is extremely relevant in this sense. And this is in spite of the fact that the strategic partners from the east have the same objectives of European integration, or at least oppose to their neighbors accomplishing this objective.

This is why it is extremely difficult for the non-governmental organizations, like the one I represent, to approach the interethnic problems that are still very delicate in the Republic of Moldova. Approaching such problems, with a very high potential of politicization, especially if talking about some practical things, exists the risk to be accused of party spirit. I believe that this explains the fact that the civil society, practically, has contributed in an unessential way to the harmonization of interethnic relations. From our organization's experience I know that by approaching the problem of interethnic relations, by making some statements or sharing some ideas, one obtains less than by approaching this problem posing questions, especially for the opinion makers of different orientations. This kind of approach has a rational support. No matter how paradoxical can seem everything that has been done in the field of interethnic relations, negatively as well as positively – it has been done by politicians. The positive things, though, have been done by these, in the largest part, under the pressure of political circumstances, be they pressures on behalf of neighbor countries or international organizations. Particularly in what concerns the creation of legal framework. However, exactly here resides the bad side – anybody could ask himself, and this thing happens, what if this background of interethnic relations is a very unstable one and what if an eventual change in political conjuncture can lead to a revision of these relationships. In order to avoid accusations of statements without backup, I would like to remind you about the outburst of rather harsh polemics between the authorities from Chisinau and those from Comrat. Until recently it was considered that the solution of conflict between Chisinau and Conflict was a positive example. Now we are not discussing who was right and who was wrong, now we are interested in the effect that I have already mentioned: we have a legal framework adequate to the international standards but we still lack ethnic harmony. This is why the process of European integration, which imposes an external framework for the movement towards certain values, remains to be a fundamental one.

I have already mentioned that on July 19, this year, the Parliament adopted the Law regarding the rights of persons belonging to national minorities and the legal status of their organizations. Only the time and the practice of implementation of this law will show whether this is a good law or just a declarative one. The law has an obvious character of protection of minorities' rights, but the declaratory character is very pronounced. Some stipulations of the law repeat some principles set in the Constitution, that are generally accepted. Or, in our Constitution there are several other very good stipulations, but cannot be accomplished due to the economical condition the country. What is truly new in this law concerns the declaration of the minorities' rights to a percentage of representation and participation in the administration of public affairs. It is known that an offered right but which is very difficult to accomplish can cause erroneous interpretations. Excessive settlement can have negative effects upon the communities that these rights are meant to favor. The experience shows that in a series of countries, the establishment of a percentage for proportional representation in representative bodies had led to the fact that these minorities got a smaller number of mandates than before the settlement based on the principle of proportionality.

This kind of situation is also possible in Moldova. In the Parliamentary elections from 1994 and 1998, when the principle of percentage offered to minorities had not been proclaimed yet, the citizens of Gagauz origin were represented in the parliament in proportion of approximately twice as much as they would have, had this principle been respected.

The actual election system leaves the creation of candidates' lists at the political parties' discretion. The party leaders that have a good political intuition orient themselves very well in such conditions. For example, in 1994, the electoral block "Unitatea – Edinstvo", got more than 25 percent of the mandates due to their message addressed particularly to the national minorities. The Agrarian Democratic Party used such messages as well. As a result, the representation of the minorities in 1994 was relatively plenary.

It is very well known that for several years the Gagauz leaders claim the right to replace the representation based on ethnic criteria with representation based on territorial criteria. Thus changing the electoral system becomes an imperative. There is a rule that increasing the number of parameters usually makes the solution of the problem more complex. If the implementation of the provisions of the recently adopted law will lead to a change of election system and the elections will be based on territorial circumscriptions formed on ethnic criteria, certain problems could arise. For example, localities densely populated by Gagauz and Bulgarians will be able to promote their candidates. And this is a good thing. On the other side, the citizens of Russian origin and, partly those of Ukrainian origin, could feel a certain discomfort due to the fact that they are distributed relatively uniform through the country and, practically, will have a majority in very few circumscriptions in order to benefit from the ethnic vote. I am not talking about the Roma, who will lose even their theoretical chance to promote their candidate in such a situation. Hopefully it will not happen this way. Anyway we wanted to show that excessive settlements can have opposite effects to those expected. Here resides the risk that I was talking a little earlier. The right to participate in the government, the right to institute nongovernmental organizations, political organizations had existed even before this law was adopted. It is good that

the law was adopted, at least for the fact that, as the representatives of minorities affirm, this offers them one more guarantee for the respect of their rights.

Those people who criticized this law have brought to light the fact that through the promotion of this law, the representatives of minorities have demonstrated that they had suspicions regarding the democratic character of the Moldovan state. In the meantime, they showed that the intention to declare Russian the second official language could create new tensions within the society, caused by the asymmetric character of the use of two official languages. The local population speaks both languages while a large majority of the Russian-speaking population knows only Russian, which *de facto* has a status of official language. Their question is whether not the laws concerning the use of two official languages and the law regarding the rights of the minorities to have a percentage of representation in administration will produce collisions. It could be possible that the proclamation of two official languages offer public officers the possibility to impose citizens their language for communication. In the opinion of opponents of this law, the citizens, in any situation, should have the right to choose the language of communication with public officers, a thing guaranteed already in the existent legal framework.

## **PARTICIPATION OF MOLDOVAN NONGOVERNMENTAL ORGANIZATIONS IN THE ACTIVITIES OF THE STABILITY PACT**

Igor GROSU, "CONTACT" Center

One of the significant events for the Republic of Moldova in the year 2001 was the event from summer, i.e. the adherence of the country with full rights to the Stability Pact for the South-Eastern Europe. For the republic it is an opportunity to demonstrate in practice that the wish for European integration is not only an electoral slogan, but also a succession of actions that form a long-term strategy. Moldova's contribution in this sense is still modest in all three workshops.

My particular interest is related to workshop No.1 In what conditions do the Moldovan nongovernmental organizations through their activity participate in the accomplishment of the objectives of the workshop No.1? We have to start from the fact that the Republic of Moldova supported "the Declaration of the Stability Pact concerning the partnership between NGO's and Governments from South-Eastern Europe." In accordance with this declaration, the governments of the countries from within the region, with the view to promote a larger involvement of the NGO's in the specific activities of the Stability Pact have committed themselves to:

- Support the adoption, amendment or implementation of a legislation that would contribute to the creation of a favorable framework for the nongovernmental organizations, allowing them to be created without restrictions and to act freely.
- Promote an increased participation of citizens and residents in political and social problems, by including in the educational system an education in the spirit of democracy and social responsibility and by supporting campaigns of increasing awareness of public opinion initiated by nongovernmental organizations.
- Assure a better communication between the public administration and NGO's, with the purpose of guaranteeing transparency of legislative and administrative processes, strengthening trust of the citizens regarding the activity of public institutions and eliminating the sources of corruption from administration, etc.

Moldova progressed partially in this domain. We have to start from the conditions in which the associative sector from the republic is activating. Although the domestic legislation concerning nongovernmental organizations is highly appreciated by the experts in the field, for the NGO's the problem of promoting a project of legislation regarding noncommercial organizations still exists. The importance of this law is indisputable, with its adoption an important step will be made in the consolidation of the relationship between NGO's and state, because offices for the relations with noncommercial organizations will appear. In addition other forms of association will be able to activate according to the legislation that until now do not have an adequate framework (schools, libraries, medical institutions, etc.)

The registration procedure of a nongovernmental organization continues to be problematic in rural areas. If in the case of national NGO's the procedure can take up to a month, then at the local level this procedure can take at least 3 months. The situation can be explained by the fact that the registration or denial in registration of a nongovernmental organization is decided by the local councils that meet once in three months. Even if extraordinary meetings are convoked, it is hard to say that these meetings will be convoked in order to decide upon the initiative of some citizens to



associate. The optimal solution in this case would be the amendment through which the right to decide in such cases is attributed to the mayor instead of local council.

In spite of this, there are examples of collaboration between the nongovernmental organizations and the state at the national as well as the local level. I am talking about the relationship between NGO's and the Ministry of Foreign Affairs, Ministry of Ecology, Constructions and Territorial Development, Department of Youth and Sports. We can talk about more examples of collaboration at the local level, as an example could serve the projects financed within the "Community Development" project.

What exactly is the contribution of NGO's from Moldova to the projects initiated within the workshop No.1 of the Stability Pact? One of the recent projects is called "Link Diversity" that represents a campaign of awareness building in order to promote multi-cultural societies and democratic citizenship for everybody from the South-Eastern European countries. In Moldova, as well as in Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Romania, Slovenia and Federal Yugoslav Republic, National Committees for Organization were created, composed of representatives of nongovernmental organizations, representatives of state structures, national minorities, etc. The project will be implemented between October 2001 and October 2002 and will include round tables, youth exchanges, trans-frontier activities, common media actions, etc.

Another project connected to the Stability Pact and partially financed by OSI Budapest is "Teaching Manual - Meeting our Neighbors". The Project is coordinated by the Center of Educational Initiatives from Sofia. The product of this project will be a manual of Balkan Literature, which will be translated into 9 Balkan languages and offered to high-schools. At the moment the project is being developed. On behalf of Moldova a group of 4 people is involved, including a representative of the Pro-Didactica Center (NGO)

"The Structures and Standards of Initial Training of History Teachers in South East Europe" is the project that offers development of reports for each country from South-Eastern Europe, about the training of history teachers and teaching history classes in secondary and undergraduate educational institutions. This will be a comparative study based on statistical data regarding the number of teachers, hours, students, etc.

A group of experts has been created recently on behalf of Moldova, which will participate in the accomplishment of "Non-discrimination review" project. The project has the purpose to develop an analysis of legislation, local practices and policies concerning ethnic minorities from Moldova.

Based on the facts mentioned above we can conclude that:

- The degree of implication of nongovernmental organizations from Moldova is relative in comparison with civil societies from the states of the Stability Pact, this is why a more active involvement in the projects that have been launched or that are being conceived is required.

- The majority of population is poorly informed about the place of Moldova in the Stability Pact and about the opportunities it offers, deficiency that can be eliminated through informative activities undertaken by the NGO beyond Chisinau limits.
- The legal framework concerning the activity of the nongovernmental organizations is incomplete and requires an improvement through the adoption of a legislation project regarding noncommercial organizations, as a respect towards the commitments made when supporting The Declaration of the Stability Pact concerning the partnership NGO-Governments of the South-Eastern European States.

## **ELECTRONIC MASS MEDIA AND DEMOCRATIZATION**

Ion MIHAILO, Coordination Council of the Audiovisual Media

Having the privilege of being invited to such an important forum with the subject “The participation on Moldova in the Stability Pact as accelerator of the socio-economic reforms in the region”, I would like to mention from the very beginning that the public institution of the Audiovisual Media, which I have the honor to represent here, is relatively young, having only the second mandate of activity and, obviously, does not have the experience that could be shared with other mass media institutions.

And still, this pretty difficult process of democratization of the Audiovisual Media in Moldova started not with or after the adoption of the Law concerning the Audiovisual Media by the Parliament, but long before, around 1985-1986, with Gorbachev breaking the ice in the former Union. The distrust, disillusion regarding social security from that period made the Television, radio and some newspapers speak the truth, to be consequently accused of incorrectness and lack of professionalism.

Just like in that period of time, when the society was overwhelmed by a state of general apathy reflected, with some exceptions, in the electronic media and particularly in the written press, today the Moldovan society is brought to a limit, which in fact is manifested by a total carelessness towards the happenings from the country and towards what is being described in the electronic and written mass media. With the past and present social disequilibrium in the background, the national press gets sometimes to be characterized as a shadow of democratization and free speech.

After this short introduction I will take use of some figures, which I hope will provide you with a conclusive image of the statements I have just made and which will ultimately constitute the audiovisual landscape of Moldova at present.

Started in 1991-1992, long before the Law on audiovisual media, the process of democratization of the activities of broadcasting and television had a slow pace at the beginning, to later witness an explosion in 1997-1998. Thus, in these 3 years 44 private TV studios, 37 private radio stations, 52 cable networks in 22 localities covering approximately 300 000 homes got broadcasting licenses. 40% of the licensees are located in Chisinau Municipality.

The law on audiovisual media from Moldova was adopted by the Parliament in October 1995 and promulgated in the middle of December of the same year. The conditions for the enforcement of the law were created only 1997 because the statute of the Coordination Council of the Audiovisual Media was adopted by the Parliament only on October 15<sup>th</sup>, 1996, and the process of registration and tracking of the radio and TV stations started after April 8, 1997, with the adoption of the Decision No. 4.P by the Ministry of Economy and Reform and the Ministry of Finances.

Beside the many problems related to the enforcement of the law on audiovisual media in practice, I ascertain from the very beginning that the law contains a whole set of provisions that conflict with the reality, with other legislation and obviously with the European and international norms regarding the freedom of opinion and the freedom of speech. From here, starting with 1997 the amendments and modifications of the law began, a process that lasts up to present times. The most essential changes were

accomplished in 1999 with the modification of five articles and 25 paragraphs. Leaving the figures aside, I would mention that not all the modifications and amendments accomplished in these five years were guided by the rationale of improving the Law, or adjusting it to the international and European norms, there have been modifications with populist or purely political character. However, this does not mean that today the audiovisual from Moldova does not speak its word in the strengthening of democratic values in the society.

In order to understand the purpose of the Coordination Council of the Audiovisual Media, we must bring up for discussion its statute, approved by Law, and particularly the statute of autonomous public authority, guarantor of public interests.

Looking at things from this angle, we cannot talk under any form about a body for suppression, censorship or constraint. Although the written press from Chisinau, treats its present Council in this particular way without providing any arguments.

The role of the Council is to provide regulations in the field of audiovisual media, with competences particularly in two directions:

- a) Administration of a segment of the national patrimony reserved in the field of TV channels and radio frequencies, through issuing licenses and authorizations for radio and television stations, as well as cable broadcast networks.
- b) Regulation of the audiovisual landscape through decisions, compulsory norms or recommendations.

The Coordination Council for the Audiovisual Media from the Republic of Moldova is a body which is similar to the structures existent in all the democratic countries, having to a large extent the same competences and attributions. The Coordination Council for the Audiovisual Media should be, and sometimes manages to do so, the first defender of the freedom of speech, because the complexity of the activity in this direction for our Republic still continues to be "terra incognita". I will exemplify.

Public debates for offering new broadcast licenses for the frequencies included in the contest, provision of authorization decisions, monitoring of the activity of the broadcasting channels, adoption of required legislation and settlements, continuation of the development and diversification of the audiovisual services - are some of the permanent preoccupations of the Council's activity.

It is sufficient that the results of one of this activity not coincide with the position of some authorities or claimers of frequencies, that our brethren from written press attack with all their journalistic ardor the activity of the Council, accusing it primarily of noncompliance with the democratic principles.

The democratization processes that our country is going through together with other post-communist countries, contribute to the rapid liberalization not only of the market of material values but also of the spiritual market. This process is natural. And still, the national interests, at least during the first phase, require enforcement of measures for protection of the local producer in the field of audiovisual media.

In this direction the performance of the present law on audiovisual media is poor. Today the audiovisual landscape of Moldova contains an ever-growing pressure on behalf of foreign broadcasts, finding privileges even in the text of the Law, as well as in international and European legislation which recommend assurance of nondiscriminatory conditions with the regard to the origin of the TV and radio programs. However, according to my opinion, the criteria for choosing the candidates for obtaining broadcast licenses should be stricter and should provide not only the support for creation and national audiovisual production, but also a significant share from broadcast time, condition that should be valid even for private stations which function and are financed only from sources specific for market economy. If this criterion is included in the Law, I believe it could favor a more active inclusion of national audiovisual production into the European and international patrimony.

Getting to the necessity of interpretational analysis of the Law on audiovisual in the context of a democratic society, I would also mention the fact that the Law does not provide the promotion of services in the rural and urban areas with insufficient audiovisual services. Due to this reason more than 50 percent of the broadcast licensees are activating in Chisinau, Balti, and Cahul municipalities, while the spectators or radio listeners from rural areas are deprived from this right. Here is an example: At the last contest for TV channels, there were 5 claimers for the 43<sup>rd</sup> channel from Chisinau municipality with the power of the transmitter of 1 kW. However, nobody was interested in the channel 51 from Orhei with the transmitter of the same power.

Another example: The present law does not contain restrictions for the consumers of audiovisual programs concerning the access to the information about the provider of audiovisual programs. Most of the laws from countries with an advanced democracy stipulate that any person who was refused by a cable TV provider the access to information, such as the method of price structure, etc., in accordance with the Law can sue the cable operator in order to compel it to provide this information. The Law of the audiovisual from the Republic of Moldova does not provide, not even for the Council, the necessity to possess such information, although according to the status it is considered an autonomous public authority.

Rather vulnerable, in the context of democratic priorities, are the provisions of the Law regarding the structure and creation of the Coordination Council of the Audiovisual Media. In my opinion the penal provisions regarding the compliance with law in effect, require a new revision. A special discussion would be necessary about the restrictions in the activity of the journalists in the field of audiovisual.

In conclusion I would say that the present Law on Audiovisual Media with the modifications and amendments made during these 5 years manages to a large extent to regulate the activity of the audiovisual means of communication. Expressing in this short communiqué some conceptual drawbacks, maybe due to the lack of experience, I would not agree with some recent findings from written mass media as though there was a tendency on behalf of the state to monopolize the access to audiovisual means of communication. It's more of an excessive politicization of the society, which ultimately leads to a total politicizing of the mass media.

The fact that the Republic of Moldova has the Law on audiovisual media for more than 6 years, and the Coordination Council for Audiovisual started its second mandate, tells us the truth that our country, as a former soviet republic, has legally stepped into a regime of constitutional state respecting the European and international norms on the freedom of speech and freedom of opinion. I say this because in some post-socialist countries, such as Byelorussia, Azerbaijan and all the Asian countries these laws regarding the functioning of the audiovisual media have not yet been adopted.

Finalizing, I express my opinion that there is a long way to perfection, however in a short future there will be modifications within the present law regarding the criticizing of public officials, assurance of the journalism with mechanisms of access to information, improvement of the mechanism of protection of autonomy and independence of the Coordination Council of the Audiovisual Media, and other provisions that would make the present law totally correspond to the standards of the 10<sup>th</sup> article of the European Convention on human rights which stipulates that any person has the right to the freedom of speech, including the freedom of opinion, the freedom to receive and communicate information and ideas without any interference on behalf of the public authorities.

However, we shouldn't forget the fact that the above-mentioned article does not impede the state to place the audiovisual organization from the country under a regime of authorization.

Thank you for your attention.

## MASS MEDIA IN THE REPUBLIC OF MOLDOVA

Nicolae NEGRU, Independent Journalism Center

### **Legislative aspect**

The mass media legislation in the Republic of Moldova is sufficiently liberal, in accordance with the spirit and norms established by the international conventions (such as the European Convention for human rights, etc.), and ratified by the Parliament of the Republic of Moldova. The Moldovan Constitution stipulates, on one side the freedom of expression and the right to information, and on the other side prohibits the censorship of mass media. It can be said that until recently there existed a positive evolution of legislative nature - the adoption of the Constitution was followed by the elaboration of a series of laws to establish the specific legal framework for the functioning of diverse types of mass media – the Law of Press, the Law of Audiovisual, the Law of access to information – and at the same time, the amendment of some articles, which, in a certain way obstructed the freedom of expression.

However, it must be mentioned that this evolution was determined not certainly by the “goodwill” of those in power or by the availability of the political elite, but more exactly by the pressure on behalf of international organizations, in particular the Council of Europe, which formulated certain conditions for the Republic of Moldova, and also by the initiatives of different nongovernmental organizations that set their goal to fighting for the freedom of the press in the Republic of Moldova. Thus was possible the amendment of the article regarding the “defamation of the state and people”, as well as the decision of the Supreme Court of Justice from June 19<sup>th</sup>, 2000 regarding the interpretation of some articles from the Law of Press and Civil Code (art.7 and 7.1) regarding “harming of honor and dignity of public officials”, putting an end to a discouraging tradition for journalists, who could be, and were, brought to justice for any expressed opinion about the representatives of power.

A good legislation however doesn't mean a good respect of it, there is still a long way to go until the access to information of public interest will be a matter of procedure and not a matter of mentality.

For example, the adoption (May 2000) of the law concerning the access to information, which stipulates that any person residing on the territory of the Republic of Moldova in a legal way can demand any information, any document from the public authorities/institutions, without being compelled to explain the interest towards this information, and that the denial to provide the requested information or documents in the whole or partially is possible only in the case that these are a part of the limited number of exceptions strictly enumerated by the law. There has been no visible improvement of the situation under this aspect, the law remained to be largely inoperable. A recent survey in the journalist environment shows that approximately 80 percent from the respondents consider that the activity of the Presidency, the Parliament and the Government is still not sufficiently transparent.

The political factor is decisive for the evolution of Moldovan mass media, in a fluctuant legislative framework, being in the process of formation, which the power either ignores, or influences in the desired direction. When on March 23<sup>rd</sup>, 2000, the Parliament of the Republic of Moldova, through the operation of some amendments in the electoral code, banned the broadcast of electoral publicity by the foreign “radio and TV stations, newspapers, retransmitted or reprinted on the territory of the Republic of Moldova, as well as audiovisual stations and printed supplements, broadcasted or edited as satellite of these programs and newspapers”. This action was designed to “neutralize” the political forces around the president from that time, Petru Luchinschi, who controlled the respective mass media. Nothing was done however for a rigorous control over the sources of money for the electoral publicity, as it would have been logical to do. In the same way, the parliamentary communist majority recently banned the financing of mass media from Moldova by foreign governments, targeting in fact at the publications of the Christian Popular Democratic Party, partially financed from the fund of the Romanian Government for the cultural relations with the Republic of Moldova. The politically motivated interventions are rather often and create the effect of a chronic legislative instability, related to the changes from the top of the pyramid of power, and which undermine primarily the reputation of mass media as autonomous factor.

According to an older amendment of the Law of the Audiovisual, the Parliament can ignore the recommendations of the Coordination Council of the Audiovisual, and appoint the president of the State Radio and television by itself. In this way a direct political influence was created over the national radio and television. In May 2001, the Parliament modified the Law of Audiovisual in order to give the president of State Company “Teleradio-Moldova” the right to appoint the general directors of the National Television and Radio, who prior to this were appointed by the parliament with the recommendation of the Coordination Council of the Audiovisual. Through this amendment, the communist party obtained full control over the state Radio and television. The projects for transforming it into a public institution are ignored.

The often changes in the leadership of the State Company, in accordance with the political juncture have a negative and demoralizing effect on the journalist community. The policy of personnel within the Company is accomplished in accordance to political loyalty and not professionalism. The editorial policy is supervised not only from the ideological point of view, but also from the view of some narrow political interests. As a consequence the quality of the programs and the reputation of the national television and radio as source of information has to suffer.

### **The economic factor**

The economic conditions from the Republic of Moldova are not favorable for the development of press as a business. The decline of the buying power of the population has reached the lowest possible limits. During ten years, the circulation of some newspapers decreased to from tens, even hundred thousands to a couple of thousands. In the meantime, the market of publicity is at the incipient phase, and cannot assure the self financing of the newspapers, radio and TV stations. We can count on our fingers the newspapers organized as business, with subdivisions that are dealing with the attraction of publicity and marketing.



The situation of the newspapers that are trying to survive by themselves is aggravating also due to the fact that in the domain of distribution of press the old monopoly persists – Posta Moldovei (subscription) and Moldpresa (sale of newspapers at the news-stands)

All the tentative to create alternative networks of press distribution have failed. The prices established by these two monopolistic organizations constitute 30-60 percent of the price of subscription. In general, however, the sources of financing of the newspapers are not known except the cases of the party newspapers (which are obscure sources).

There are no independent services that would certify the numbers of circulation announced by the newspapers themselves as well as the rating of the radio and TV stations. On the other hand, the repartition of the publicity, be it insufficient, is not accomplished according to the circulation. It is obvious that the mass media in Russian have more publicity than the ones in Romanian, even though the circulation and their audience is not smaller than the circulation of the Russian language mass media (with the exception of the weekly newspaper “Komsomolskaia Pravda v Moldove” that has the largest circulation – approximately 50 thousand of copies, which is however poorer in publicity than let’s say “Ekonomiceskoe obozrenie”, with a circulation 6 times smaller. It seems that the Russian-speaking businessmen deliberately ignore the mass media in Romanian.

Sometimes the authorities make pressures on the businessmen who sponsor or offer publicity to newspapers that are not, for some reasons, of their interest.

### **Informational Space**

The informational space from the Republic of Moldova is practically monopolized by the Russian-speaking mass media financed from Russia. The income from the publicity on the Moldovan market cannot maintain such a large number of radio stations, and, in consequence the local producer has to suffer who does not possess the additional sources of financing. A situation of unequal competition has occurred, which is disadvantageous for the stations that produce their own programs. The local producer is practically eliminated from its own market, its activity being limited to the retransmission of some foreign programs, preponderantly Russian. The most recent victim of this policy is the INFORADIO station, one of the few from Chisinau that had the ambition to broadcast every fifteen minutes the information bulletins in Russian and Romanian. Recently, after a year of existence, it was forced to give up its own expensive programs and started to retransmit the programs of the Russian radio station “Eho Moskvu” (“Moscow’s Echo”)

This situation on the informational market of the Republic of Moldova creates tensions of political and interethnic natures. It is about the so-called CAIRO case (The Club of Alumni from the Romanian and Western Institutions), which demanded the respect of the legislation concerning the proportional representation of the emissions in Romanian in the programs of radio stations. After the Court of Appeal gave them the victory, a scandal of huge proportions started that risked to affect the relations between the Republic of Moldova and Russian Federation. The intervention of the

Parliament, which modified the particular law, in the sense of eliminating the compulsory condition invoked by CAIRO during trial, the spirits cooled down, but the conflict situation is still maintained and a new scandal can happen anytime. Issuing licenses, the Coordination Council of the Audiovisual does not react effectively to the fact that the beneficiaries of licenses do not respect their commitments assumed during the contests of obtaining a license. With the purpose of protection of local producer, new types of licenses “license of access” and “license of retransmission” were proposed and voted by the parliament with the title of amendment to the Law of Audiovisual, but the president of the Republic of Moldova refused to promulgate this amendment.

### **News agencies**

On the information market of the Republic of Moldova activate a national news agency – Moldpres, and five private agencies: BASA-press, Infotag, Flux, Interlic and DECA-press (Balti) founded in the last 9 years. Moreover, in Tiraspol was created the “State agency of the Transnistrian Moldovan Republic” – Olvia-Pres, and in Chisinau – the agency of the municipality Infoprim. During the electoral campaigns other news agencies appear whose “mission” is to close when the voting is over.

The private agencies have manages to marginalize the state news agency Moldpres, as the main source of news in the period prior to 1992, when BASA-press was created. Today they give the tonality to the Moldovan press, influencing their informative content, because few newspapers possess their own means of production of news. Due to the fact that the majority of the news agencies were conceived right from the beginning as businesses, they imposed on the informational market of the Republic of Moldova certain standards of impartiality and professionalism.

However we can talk about a “relative profitability” only in the case of two news agencies - BASA-press and Infotag, that these would exist only from selling news. It is worth mentioning that the main incomes of these two news agencies originate from selling news to beneficiaries from abroad. Thus, according to the data provided by the general director of the BASA-press agency, 70 percent of the income comes from this activity.

### **State-owned and private mass media**

In their relationship with mass media, the authorities prefer the state-owned mass media when talking about the admission to different events, providing information or offering interviews of the officials. Lately, a tendency of reestablishment of the state press at the county level is noticed, newspapers are founded which are financed from the county budgets and, respectively controlled by the county authorities. As an example we can mention the counties Tighina, Soroca, Orhei, Balti.

The interests of the private mass media owners are represented by two professional associations: the Association of Independent Press (API), which includes two news agencies and 13 independent newspapers, predominantly local, and the Association of Electronic Pres (APEL), which includes about 15 radio TV stations. In general, the

association process is just starting (API was founded in 1997 and APEL in 1999) and is still very weak, in the printed media as well as electronic. The main cause is the lack of solidarity determined by the divergence of interests of the mass media owners, many of them being politically affiliated or financed from abroad. It is to mention that the majority of the nationwide newspapers are published by the political parties and receive financial resources from abroad; in the field of audiovisual, the political affiliation is less visible (with some exceptions, the most notorious being the TV station Catalan, which went bankrupt), but the financial dependence on the foreign founding companies and the acerbic rivalry for the market in formation, impedes the approach and the collaboration among them on issues of common interest.

There are approximately 20 nongovernmental organizations on mass media but only one third of them are active in the support of the freedom of press and independent mass media. Among these is the Union of Journalists which evolved from a professional organization of soviet model to a nongovernmental organization, the Independent Journalism Center, Committee for the Freedom of Press, The Center for Promotion of the Freedom of Expression and Access to Information. Their actions are manifested in the field of improvement of legal framework for the activity of press and free circulation of the information, and assurance of a continuous process of training journalists, as well as the protection of the professional rights of the journalists.

### **Communist Government**

After the parliamentary elections held on February 25<sup>th</sup>, we can talk about a descendent evolution, an involution of the freedom of expression and the freedom of press in general. Actions of intimidation and discrimination of press have been remarked from the very first days of communist government. For example, a communist deputy demanded that the newspaper Flux be closed, upset at the way in which this newspaper wrote about a party organized by the communists after the ceremony of presidential oath of Vladimir Voronin. In fact, the journalists from Flux, Tara, Trud-Moldova, Jurnal de Chisinau, were not allowed to this ceremony, implying the reason that these would denaturize the reality and that they are “bourgeois”.

A real censorship was instituted in the Company “Teleradio-Moldova”, the main audiovisual state institution. The activities and the opinions of the opposition parties are not reflected even formally. The news begin, just like in the soviet times, with reportages about the daily activity of the state leadership of the Republic of Moldova.

In a declaration launched by the Democratic Forum of Moldova on June 1<sup>st</sup>, shows that the ignorance in the informative programs of the State Television of the press conference organized by the Democratic Forum of Moldova on May 30, 2001, where the TVM journalists were present, proves the party censorship from the State Company Teleradio Moldova, established by the communists.

Also at the beginning of June, five mass media organizations from the Republic of Moldova protested against the exclusion of the program "Clubul de presa" (“Club of Press”) from the National television programs. The emission scheduled for the evening of May 31<sup>st</sup>, 2001, was withdrawn only with a few hours prior to the emission

with the reason that “does not correspond to the rigors that guide the State Company Teleradio Moldova”.

The Independent Journalism Center, The Committee for the Freedom of Press, The Journalist’s Union from the Republic of Moldova, The association of Electronic Press, The Center for Promotion of the Freedom of Expression and Access to Information have signaled, with the regard to this administrative abuse of the Leadership of the State Company Teleradio Moldova, “the trend of suppression of the diversity of opinions in the broadcast of the Radio and Television.

The third forum of the nongovernmental organizations, that recently took place in Chisinau, was ignored by the authorities and by the State Company Teleradio Moldova, however, during that day the komsomol meeting from the Ciocana district was thoroughly covered in news.

The TVM establishes censorship not only on the appearance of some persons, ideas, but also on some words such as “Romanian”, thus becoming an instrument of communist anti-Romanian and anti-democratic propaganda, just like in the worst years of the soviet totalitarianism.

The most recent and the most symptomatic case of attack on the freedom of press represents the interdiction of the newspaper “Kommersant Moldovy”. The economic court from the Centru district of the capital has given victory to the General Prosecutor’s Office of the Republic of Moldova, which demanded the closing of the newspaper “Kommersant Moldovy” for the reason that this publication publishes articles that are dangerous for the state security, approaching the Transnistrian problem in a way favorable to the separatists. The irony of this decision is that, prior, also with the insistence of communists, TVM banned the emission “Mosty” (“Bridges”), because its producer, Oazu Nantoi, made harsh appreciations with the regard to the same separatist leaders from Tiraspol. This case proves that the communist government does not obey to any than its own impulses, following and punishing in a reflexive way any manifestation of dissidence or opposition.

### **Recommendations:**

1. From the legal point of view, the Law of Audiovisual should be amended in the way that the governmental party cannot change the leadership of the national radiotelevision when it desires to do so. The appointment of the directors of the National Radio and Television must be accomplished only with the recommendation of the Coordination Council of the Audiovisual
2. The National Television and Radio should be transformed into public institutions
3. Stop the tendency of state control over the county press.
4. Develop and present a program of support for the independent mass media from the Republic of Moldova
5. Monitor the cases of violation of the freedom of expression in the Republic of Moldova and to demand from authorities a strict respect of the European Convention for Human Rights.

## **THE SITUATION OF REFUGEES AND ASYLUM SEEKERS IN THE REPUBLIC OF MOLDOVA**

*Ecaterina SILVESTRU, Ministry of Justice*

Together with the dissolution of the soviet empire, started the massive influx movement of people channeling to the borders of the former giant. The first generators of these movements are ethnic and territorial disputes that started in the region. Some of these people directed themselves for the Republic of Moldova. Throughout the conflicts that were felt in Moldova, can be mentioned the followings.

The dispute between Armenia and Azerbaijan.

Year	from Armenia	from Azerbaijan
1990	198	
1991	90	180
1992	116	
1993	184	152
1994	213	
1995	97	87
1996	53	65

A considerable number of persons flee from regional conflicts from Georgia (Abhazia region) (1180 individuals between 1990-1996), Tajikistan (360 individuals during same period). Another category of persons is Afghanis who flee from civil war in their own country. The most of them studied in the former Soviet Union, being suspected upon return as communists (71 individuals registered). The above-mentioned categories have several points in common:

- a) All of them are from the former Soviet Union.
- b) Due to preferential visas regime, they entered and reside legally the country.
- c) They did not request to be recognized as refugees, because at that moment there was no such a concept.
- d) They integrated the society relatively easy, many of them married, brought their relatives, the majority naturalized.
- e) They did not apply the state for a special social assistance.

### 1) Internal displaced persons.

The dispute over the left side of Nistru river, that started with the support of the central authorities of the former Soviet Union, and later Russia, develops in 1992 in a military conflict that generated a massive influx of people directing into the territory controlled by the Government. During and immediately after the conflict there were over 60,000 persons. The influx continues even today as the intimidation, mistreatment and discrimination campaign did not stop up to now. The total number of the fled persons is estimated over 400,000, although a realistic number would be 100,000. The State University from Tiraspol was evacuated to Chişinău (teachers and students, in total  $\approx$  2,000 persons). These persons, even now cannot return to their former places of permanent residence, staying with their relatives, friends, and others even in miserable living conditions. The State intervened in many different ways in order to help these people: Presidential Decree № 196 dated 25.07.92, № 69 dated 6.05.93, as well as Governmental Decisions № 520 dated 5.08.92, № 719 dated 3.11.92, № 720 dated 5.11.92 etc.

The lack of funds, the deficit in the public budget, make that the given assistance turns itself into a simple moral support. Even now, the problems of 536 internal displaced persons from the left side of Nistru river are not solved, thus they continue to live in miserable conditions as there were not found durable solutions for their future.

### 2) Returnees

Between 1940-64 a number of approximately 500,000 people were deported or forcedly resettled in Russia, Kazakhstan, Ukraine, Belarus and other soviet republics. Immediately after the declaration of independence, these people and their descendents channel themselves to the R. of Moldova. The Law «Regarding rehabilitation of victims of political reprisals» reaffirmed the rights of these persons. According to the Law on citizenship, they can be given the citizenship of the R. of Moldova in a simplified way. Their influx continues until now. A particularity of these persons is that they also did not request to be recognized as refugees, although many of them had all the reasons to do so. As well they integrated relatively easy in the society, knowing the language, having relatives, friends in the R. of Moldova. Their financial support is almost equal to zero as a result of same difficult economic situation.

## THE CURRENT SITUATION OF ASYLUM SEEKERS AND REFUGEES

Starting with 1996-97, the R. of Moldova faced a new phenomenon, previously unknown. Significant influxes of persons pass through the R. of Moldova, directing to the west. The majority of them are from African and Asian countries. Having a quite liberal visa regime, a practically non-existent border with Ukraine and  $\approx$  200 km of border controlled by the Transnistria separatists, the R. of Moldova is a an attractive place for those migrating to Occident. Usually they come from Ukraine and go straight to the border with Romania. Only few, abandoned by their guides or retained by the police, declare themselves refugees. Of course, this affirmation does not concern all individuals, but is in any way truthful for a considerable part of the asylum seekers.

A growing influx comes from Chechnya - these persons choose Moldova mainly for the easy way in which they can enter the country (being citizens of Russian Federation they can enter Moldova without any visa), for the similar cultural environment (the most of the R. of Moldova population speak Russian and the Russian mass-media is omnipresent), the relative tolerance manifested by the local population. Chechnya cases is particular, because due influence of Russian Federation mass-media, in the society is created a hostile environment besides individuals of Chechen nationality. The Chechens usually stop at the borders of the former Soviet Union not crossing the borders of the other South-East European countries, particularly for the similar cultural environment of Moldova.

Specific categories of persons are those coming from Iraq, who declare themselves as Kurds or Shia Muslims persecuted by the Saddam Hussein regime. Many of them do not have ID's or destroy them intentionally. Normally, the asylum seekers coming from Iraq do not stay in Moldova, even being recognized as refugees, but try to leave further for the West via Romania.

The presence of smugglers that organize crossing the border to Romania is attested – well instructed guides that later instruct the smuggled persons that applying for asylum, normally, do not impose any penalties on them for the illegal cross of the border and are welcomed to apply for asylum if caught at the border. There were cases when persons are simply abandoned by the guides in Moldova, or are thrown here from neighboring countries. Often, the guides are using the fact that those smuggled do not know the realities of Europe, leaving them here with the pretext that here is Germany or other country from the West. The simple change from the Cyrillic alphabet (previously seen in Russia and Ukraine) to the Latin one, gives them the impression that they are already in the European Union. This problem affects both Moldova and countries from the region.

## I. LEGAL FRAMEWORK

The general situation of the legal framework regarding refugees and asylum seekers may be characterized as “in process of creation”. Not so far ago the R. of Moldova did not have any legal provision in this regard.

The Constitution of the Republic of Moldova provides in the art. 19 para. 2 „The right to asylum shall be granted and denied by rule of law in compliance with those international treaties the Republic of Moldova is a party to.” But the Law on refugee status was adopted only in the first reading on 20 May 2001, which means that it did not enter into force.

However, the Republic of Moldova protected and continues to protect refugees. Article 3 of the European Convention on Human Rights (ratified by the Parliamentary Decision № 408-XII dated 12.12.90) provides: „No one shall be subjected to torture or to inhuman or degrading treatment or punishment.” The jurisprudence of European Court, constantly, interprets present provisions as an obligation of the state not to expel a person to the territory where such treatment can be applied.

UN Convention against torture and other cruel, inhuman or degrading treatment or punishment (ratified by the Parliamentary Decision № 1298-XIII) expressly prohibits in the art. 3 para. 1 expulsion to a country where there are substantial grounds for believing that the person could be subjected to torture. Similar provisions are found in International Covenant on Civil and Political Rights (art. 7), UN Convention on the Right of the Child (art. 22 (1)).

Universal Declaration of Human Rights, even not having a legal character, provides in art. 14 para.1: „Everyone has the rights to seek and enjoy in other countries asylum from persecution”.

Law on Legal Status of Foreign Citizens and Stateless Persons in the Republic of Moldova provides in the art. 29 „ Foreign citizens and stateless persons can not be expelled to the country if there are evidences that they could be persecuted there due to race, nationality, religion, political opinion or they could be subjected to an inhuman and degrading treatment, torture or capital punishment."

Besides this, a number of legal documents refers to refugees, although do not consider the problem particularly: Law on citizenship, Law on migration, etc. As long as there was a lack of legal regulation regarding the situation of refugees, it was not possible to say exactly who are refugees and who are not, and many of the legal provisions remained inapplicable.

But this situation seems to be over. On 23 November 2001 the Parliament of the Republic of Moldova adopted the law regarding accession to the 1951 Convention and 1967 Protocol relating to the status of refugees. In such way was created the basis of a definitive regulation of the refugee situation and asylum seekers. The Convention sets a consistent and complete legal framework for refugees and asylum seekers, particularly: „Wherever disagreements appear between conventions and treaties signed by the Republic of Moldova and her own national laws, priority shall be given to international regulations.” (Art. 4(2) Constitution of the Republic of Moldova).

It remains to be seen how will be the Convention relating to the status of refugees implemented in practice, because besides legal provisions there are human beings and concrete cases that requires a solution, as particularly the practical application is the final scope and utility of the legal norms. In this case, the experience of other state-members to the Stability Pact in the South-East Europe, that have already a well-established asylum system, hardly can be underestimated. A close cooperation was set with the colleagues from Romania – cooperation based on the training of personnel and sharing information regarding countries of origin. A cooperation Protocol with the colleagues from Ukraine is going to be signed, as we cooperate very closely with them too.

Such cooperation is welcomed with other member-states Stability Pact in the South-East Europe, as the quality of staff training and country of origin information, are decisive in refugee legislation implementation. The harmonization of South-East Europe practices would close the „escape doors” for those abusing the asylum system.



## II. JURISPRUDENCE REGARDING ASYLUM SEEKERS AND REFUGEES

The examination of the courts' practice in the Republic of Moldova cannot begin without mentioning the fact that deliberately the courts had consequently applied the „*non-refoulement*” principle and brought into life the relevant international standards.

Even though the national courts faced the inexistence of some standards in the field, they have applied the only right and possible solution; the application of the international Treaties and Conventions Republic of Moldova is a party to.

The first problem asylum seekers confronted with was the aliens regime not adapted to the specific needs of the category given. The legislation does not envisage application for asylum as a reason for prolongation of visas, which is the competence of the Ministry of Interior. Its infringement leads to administrative responsibility (art. 192 Code on Administrative Offences). But the judges refused to sanction asylum seekers for illegal staying as long as they had Protection Letters issued by UNHCR. Even in the lack of legislation in the given field, the judges considered that:

- a. The Protection Letters issued by UNHCR are considered documents and constitutes a proof of the asylum seeker effort to legalize its presence on the territory of the Republic of Moldova.
- b. The Republic of Moldova is a party to a number of Treaties that contain provisions concerning refugees' situation.
- c. The Constitution recognizes the right to asylum (Art. 19, para. 2), and the inexistence of a practical mechanism of application, cannot be charged to an asylum seeker that devoted every effort in order to legalize its presence and to obtain this right.

Another problem, asylum seekers and refugees confronted with were the attempts to punish them according to the Art. 210 of the Criminal Code, for the illegal border crossing. Because Moldova was not a party to the 1951 Convention, there was no exemption of responsibility for that specific category. In this case, the national courts refused to apply criminal sanctions, relying once again on relevant international materials.

The asylum seekers were neither sanctioned, in accordance with the Art. 210<sup>1</sup> of the Criminal Code, for the repeated infringement of the regime of stay in the Republic of Moldova.

Therefore it can be concluded, that national courts are acting in the direction of the relevant international standards implementation, applying international legislation, in strict accordance with the Art. 4 of the Constitution, Treaties and Conventions Republic of Moldova is a party to.

## b) RELEVANT FIELD INSTITUTIONS

### UNHCR

In 1997 United Nations High Commissioner establishes its office in the Republic of Moldova. On 2/12/1998, a Cooperation Agreement with the Government of the Republic of Moldova is concluded, by which the Parties committed themselves to cooperate in the area of assisting and protecting refugees. UNHCR involves in solving the problems of the refugees and internally displaced persons (reconstruction of schools and of a hospital from the left bank of Nistru river, reconstruction of an abandoned building for 12 families, etc.).

High Commissioner Office has involved a lot in promoting of the legislation concerning refugees, by organizing seminars, roundtables, etc. The expert examination presented by High Commissioner Office, as well as the proposals of harmonization of the legislation in accordance with the international standards, are highly appreciated and carefully examined.

UNHCR also supports a number of NGO from the Republic of Moldova, through several specialized projects. Given the lack of national legal framework, UNHCR ensured and continues to ensure the refugee status determination procedure.

Presently, UNHCR is examining the applications of 109 asylum seekers (information as of 01.11.2001).

### GOVERNMENTAL INSTITUTIONS

According to the Governmental Decision no. 185 of 03/03/2001, was created the Section for coordination and monitoring asylum seekers and refugees issues, as a part of the Ministry of Labor. This Section aimed to „coordinate and monitor asylum seekers and refugees issues”. Later on this section is transformed and transferred under the Ministry of Justice, becoming Main Directorate for Refugees.

The given transfer was motivated by ascertaining the fact that major problems asylum seekers and refugees are facing with, refer in the first place to the lack of legislative framework. Juridical protection of asylum seekers and refugees becomes much important than social protection.

The Directorate contributed to the elaboration and initial of the Draft Law on Refugee Status, Law on Accession to the 1951 Convention relating to the Status of Refugees, as well as effective protection of asylum seekers and refugees.

The Judicial Training Center, engaged especially in promoting the legislation concerning asylum seekers, professional training of judges, lawyers and prosecutors.

## NON-GOVERNMENTAL ORGANISATIONS

A set of NGO is active in refugee field, ensuring mainly legal and social assistance. They are financed by different international organizations, mainly UNHCR. The main non-governmental organizations in the field are:

### Save the Children



Deputy Director: Vasile Batcu  
Moldova, Chişinău, 1 Constantin Stere str  
tel./fax: (373-2) 237-102  
e-mail: [salcop@moldnet.md](mailto:salcop@moldnet.md)  
URL: [scm.ngo.moldnet.md](http://scm.ngo.moldnet.md)

**Ensures the basic needs of the refugees and asylum seekers:** food, medical assistance, primary education, social counseling, summer vacation of the children

### Society for Refugees in the Republic of Moldova



Director: Mihai Potoroaca  
Moldova, Chişinău, 2012, 14 Bucuresti str  
tel.: (373-2) 540-351, 548-562, 540-673  
fax: (373-2) 548-562  
e-mail: [refugium@moldtelecom.md](mailto:refugium@moldtelecom.md)

**Ensures the examination of the applications for asylum:** Protection and juridical assistance in accordance with the international standards, publishes „Refugium”.

### Law Center of the University Advocates <http://www.unhcr.md/article/lcua.htm>



Director: Alexei Barbaneagra  
8 Vlaicu-Parcalab str., Chişinău, Moldova, MD -2012  
tel.: (+373-2) 22-30-99  
tel. /fax: (+373-2) 21-37-09  
e-mail: [law@center.mldnet.com](mailto:law@center.mldnet.com)

**Protection and promoting of the legislation regarding the asylum seekers and refugees:** Defense in the courts of the refugees and asylum seekers, organization of seminars and roundtables, editing books, training of the advocates in refugees and asylum seekers area.

### Youth Helsinki Citizens' Assembly of Moldova



Director: Vladimir Marian  
& Vitalii Djendoean  
Moldova, Chişinău, P.O. Box 570 2043  
tel. (373-2) 243-466  
fax: 373-2-243274  
e-mail: [yhca@mail.md](mailto:yhca@mail.md)  
URL: [www.yhca-moldova.narod.ru/](http://www.yhca-moldova.narod.ru/)

**Promoting of the tolerance between different groups in society:**  
assurance of the tolerance and coexistence between different  
ethnical, religious communities, etc.

### Legal Clinic



Director: Dragos Blanaru  
60 Alexei Mateevici str, Chişinău, Moldova, 2009  
tel: (373-2) 232-453, 244-696  
e-mail: [dragos@lc.dnt.md](mailto:dragos@lc.dnt.md)

**Legal assistance:** Legal assistance for refugees and asylum seekers,  
acknowledge of the students in the area.

### Italian Consortium for Solidarity



Director: Liliana Sorrentino  
162 Stefan Cel Mare str, Chişinău, Moldova  
Tel./fax: +373-2-247-938;  
tel.: +373-2-246-451  
e-mail: [icsmoldova@ics.mldnet.com](mailto:icsmoldova@ics.mldnet.com)  
URL: [www.mir.it/ics](http://www.mir.it/ics)

**Social assistance for refugees:** Ensure to the refugees the  
possibility  
of self-reliance, reduction of the dependence on the humanitarian  
assistance, social integration, supports the refugees' initiatives.

### Charity Center for Refugees



Director: Ahmad Djavid Paknehad  
20 Ion Pelivan str, Chişinău, Moldova  
tel.: (373-2) 745-751, 745-798, 745-831  
e-mail: [ccr@mdl.net](mailto:ccr@mdl.net)

**Assistance for Refugees:** Encouraging social integration of the  
refugees (qualification courses, Romanian language classes),  
community services (washhouse), distribution of the humanitarian  
aid.

## b. SOCIAL SITUATION

The social situation of the asylum seekers is very difficult. The state cannot grant financial assistance, because of the lack of a relevant legislation, lack of financial sources. For all that, certain progresses in that area are made (mostly thanks to UNHCR and NGOs efforts):

1. Every refugee and asylum seeker children are benefiting of primary education. (Ensured on the base of the U.N. Convention concerning Children Rights).
2. Refugees and asylum seekers are benefiting of urgent medical assistance (according to the Law regarding the status of aliens and stateless persons in the Republic of Moldova), as well as general medical assistance (thanks to the UNHCR and NGO efforts).
3. Social and legal counseling.
4. Romanian language and qualification courses free of charge.
5. Computer and English language classes free of charge.
6. The children from vulnerable families spend their vacations in the summer camps.
7. The most destitute families benefit from financial assistance provided by UNHCR.

A pilot project is unfolded by UNHCR in cooperation with Italian Consortium of Solidarity. It intends social integration of families in rural locality and their insurance with the possibility to be self-reliable and to reduce the dependence of refugees and asylum seekers on the humanitarian aid. The project is implemented in Dorotcaia village, which suffered itself as a result of the Transnistrian conflict and is situated near Chisinau.

After the accession of the Republic of Moldova to the 1951 Convention relating to the Refugees Status, the amendment of the legislation, could be expected a larger involvement of the state in social integration of refugees issues.

## c. STATISTICS AND TENDENCIES

As of opening UNHCR Office in the Republic of Moldova, a number of 845 (situation as of 21.11.2001) persons lodged applications for asylum. From that number 168 persons were recognized as refugees under UNHCR Mandate.

Generally speaking, in Moldova the number of asylum seekers is reduced, around 20 applications for asylum per month.

*The main countries of origin of the asylum seekers in Moldova are: Russian Federation, Iraq, Sudan and Afghanistan.*

Position in the top	Country of origin	Number of asylum seekers		Country of origin	Number of asylum seekers
1.	Russia	304	26.	Lebanon	3
2.	Iraq	142	27.	Liberia	3
3.	Sudan	96	28.	Mali	3
4.	Afghanistan	78	29.	Togo	3
5.	Somalia	28	30.	Alger	2
6.	Nigeria	24	31.	Armenia	2
7.	Georgia	18	32.	Croatia	2
8.	Sierra Leone	10	33.	Yemen	2
9.	Angola	9	34.	Ukraine	2
10.	Kirghiztan	9	35.	Belarus	1
11.	Stateless persons	8	36.	Benin	1
12.	Azerbaijan	8	37.	Burundi	1
13.	Burkina Faso	8	38.	Gambia	1
14.	Cameroon	8	39.	Guinea	1
15.	Ghana	7	40.	Jordan	1
16.	Iran	7	41.	Kazakhstan	1
17.	Yugoslavia	7	42.	Kenya	1
18.	Pakistan	6	43.	Macedonia	1
19.	Syria	6	44.	Madagascar	1
20.	Congo, Rep. Dem.	5	45.	Marok	1
21.	Eritrea	5	46.	Pakistan	1
22.	Egypt	4	47.	Romania	1
23.	Israel	4	48.	Senegal	1
24.	Ethiopia	3	49.	Tajikistan	1
25.	India	3	50.	Uganda	1

*Demographical presentation of asylum seekers (situation as of 01.11.2001):*

Age group	Men		Women		Total	
0-4	28	3,34%	20	2,38%	48	5,72%
5-17	56	6,67%	59	7,03%	115	13,7%
18-59	519	61,86%	139	16,57%	658	78,43%
60- <	7	0,83%	11	1,31%	18	2,14%
Total	610	72,71%	229	27,29%	839	100%

*Evolution in time of the applications for asylum was not uniform. Most of the applications were lodged at the end of the year 1999- beginning of the year 2000.*

## Conclusions

The situation of the refugees in Moldova cannot be characterized in a few words. The comparatively small number of the asylum seekers and refugees is explained by not attractive conditions of life in Moldova. The Republic of Moldova remains to be a transit country for the majority of the asylum seekers, in their way to the West. Only a small number of them, refugees from Russian Federation, as well as Afghans that had connections with the communist regime or studied in the former Soviet Union, settle down in the country, because of the favorable cultural climate and knowledge of the Russian language. Is to be expected, that once the boarder regime with Romania will harden, the number of asylum seekers will increase.

Even in the lack till the last moment of a pertinent legislation, the Republic of Moldova protected and continues to protect refugees. This fact was mostly due to the efficiency of the judicial power and involvement of UNHCR in the issue given. Construction of a coherent system of protection in this area remains another problem to be solved. Republic of Moldova is making concrete steps for a legislative, administrative settling of the problem, acceded to the 1951 Convention relating to the Status of the Refugees, but the refugees' problem cannot be limited only to the protection against "refoulement". If the first persons arriving from the former soviet republics, as well as the repatriates integrated comparatively easily in the society, without the substantial state support, refugees mostly do not know the language and the culture of our country; often they need assistance, even minimum, for integration. The experience of the South - East European countries, a number of which had to face major challenges, could be really useful. Only a close cooperation could defeat some problems, their seriousness remaining to be only predicted.

In the context of a deeper globalization of the society, being a hindrance in the way of migrational movements towards European Union, South – East Europe will be affected by an increasing number of asylum seekers, aggravate the actual asylum system.

In our opinion, the task of the Pact for Stability is to connect every relevant agency from the Member States, in order to a give a common answer and to elaborate a coherent policy in asylum field, avoiding the reiteration of mistakes.

With the creation of the partnership for those 5 States that participate at the implementation of the initiative regarding Asylum and Migration, the Republic of Moldova required Romania agreement in order to become junior partner state for Moldova, and was required the support of Germany, France and USA with a view to identify a country which would become a leading country. Actually, the Republic of Moldova is awaiting the identification of such a leading country, in the frame of the partnership given. We hope that the organization of this conference in the capital city of the Republic of Moldova, is an encouraging sign for our country to involve more and more in the activities of the Stability Pact, but in the same time a sign of availability of donor countries to involve more in depth in the problems in the Republic of Moldova.

## **EVALUATION OF INTEGRATION POTENTIAL IN THE SOUTH-EASTERN EUROPE**

Valeriu PROHNITCHI, "VIITORUL" Foundation

One objective of the Stability Pact is to assure economic prosperity within the South-Eastern region of Europe and to facilitate the adherence to the European Union of those countries that expressed this option. In order to accomplish the integrationist and prosperity desideratum, the countries must collaborate in order to create true market economy systems, which would be based on coherent macroeconomic policies, would be opened for international trade, would have strong private sectors, transparent commercial and customs regimes, diversified institutions of property and developed capital markets. Positively correlated with those mentioned is the idea of liberalization of regional commerce, and in order to accomplish it the member states signed on the 27<sup>th</sup> of June the Memorandum regarding the liberalization of regional trade. This objective is to be accomplished through the institution of a network of bilateral free trade agreements among the countries from the region. In continuation we will try to evaluate how realistic these ideas are, to elucidate the advantages, as well as the inherent risks, and to express some proposals and measures meant to facilitate and bring dynamics to the regional commerce.

It must be mentioned right from the beginning that signing bilateral agreements of free trade will be, in principle, a very useful exercise for those who aspire to integrate in the European Union and a school of good relations and mutual responsibility in a zone ground by conflicts. However, in our opinion, a much better option for the development of regional trade would be the option of adherence of all countries to one multilateral treaty of free trade in the region. This thing is remarked also in the technical study accomplished by Jean-Christophe Maur and Patrick A. Messerlin, who evaluate the bilateral agreements of free commerce as already existent in the region<sup>i</sup>. In fact, one could get to the same results through a network of bilateral agreements, but with higher costs, with an increased incertitude and in a longer period of time. Besides this, the Memorandum recognizes the priority of multilateral commercial openness, i.e. at the level of World Trade Organization, to regional initiatives and stipulates the adjustment of bilateral agreements to the WTO norms. On this fact insisted even the official representative of the WTO at the meeting from Geneva that was held on February 18<sup>th</sup>, 2001<sup>ii</sup>. In addition, the Memorandum declares in an express way that the Agreements of Association and Stabilization remain relevant, and that the process of European expansion will continue. Then the natural question is – why was it necessary to have a series of bilateral agreements that will be standardized anyway? According to our opinion, a single multilateral agreement would bring more advantages to the countries from the region, especially if this agreement was accompanied by a general agreement of free trade between the European Union and the South-Eastern European states. We emphasize once again, to similar results one can get through the network of bilateral agreements, the necessary premises being the political will of all the countries from within the region and by overcoming animosity that undermines for centuries the possibility of development in the region. The primordial condition is to assure a rapid convergence of all existent and future agreements on the same model, in order to assure in this way a background for good political relations necessary for the economic reanimation in the whole region<sup>iii</sup>.



What would be the short-term effects of adherence of countries to the bilateral agreements? In order to evaluate this it is necessary to consider several factors. Historically, the countries from the region have always been the poorest countries in Europe. The initial conditions from which these started the transition to market economy were much worse than the conditions in the countries from Central Europe<sup>iv</sup>. Their economies had and continue to have unbalanced, even archaic structures. The service sector is underdeveloped. The traditions and institutions that would facilitate transition do not exist. Some of these countries have inherited from the communist regimes burdening external debts. Larger geographic distances to the European markets, the blocking of important transport corridors, institution of political, administrative and customs barriers – all these have superannuated the comparative national advantages.

Starting from these facts, as well as from the objectives of PSSEE, adherence of the countries to the bilateral agreements is a coherent action and appropriate from the political point of view, meant to deepen the mutual responsibility of the actors from the region and from which, in political terms, will benefit Moldova. However, analyzing the internal economic situation of Moldova, the situation of the countries from South-Eastern Europe and the trends of the regional trade, we can affirm with certitude that in a short period of time these agreements will not have a major impact on the economical successes and on the geography of Moldova's exports and imports. Besides Romania, the volume of Moldovan trade with the member-states of the Stability Pact is insignificant. It is hard to believe that it could considerably grow as a result of negotiations and signing of free trade agreements, because the participant countries are generally poor and insolvent. In addition, it is unclear to what extent the adherence of Moldova to the free trade agreements within the South-Eastern Europe can be compatible with its presence in the CIS structures. Another question is how to combine the status of associate member and the regime of free trade of Romania and Bulgaria with the participation in other free trade agreements.

Furthermore, some countries from the region look at the signing of free trade agreements and the intentions of increasing mutual dependence of the countries from the region with a certain suspicion. There are suppositions that all these could be promoted by the politicians from Brussels as an alternative to a veritable European integration. Considering the specific instability of Balkans, it would be unwise to substitute a free trade regime with European Union, to which all the countries tend, with a regional agreement, in which countries with similar economic situations would participate, whose priority markets are those from the Western Europe and not the South-Eastern markets. Ultimately, the European Union should assure the countries from the region that even though Romania and Bulgaria were left out of the first wave of adherence, EU expansion will continue and will not stop at the imaginary line of the South-Eastern Europe.

Any free trade agreement is founded on the reciprocity of reduction of customs barriers. However, it is rather complicated to effectively reduce them in short-term, considering the fact that the taxes applied to international commerce by the countries from the region have a significant weight in their national budgets. For example in Bosnia-Herzegovina, these equal to 10 percent of the GDP. In the case that a significant liberalization of commerce takes place, at the regional level, as well as in relation of these countries with EU or within WTO, alternative sources for public

income could be needed. Considering the political and social instability of most of these countries, it is supposed that elimination of these incomes could lead to a higher instability. In the long term, the liberalization of commerce will indisputably lead to higher budget acquisitions from the intensification of commercial exchange and from a more efficient fiscal administration. However, in the region it is insisted on short-term advantages, this being of critical importance for these countries, which in long term are interested in a free trade regime, association or integration with the European Union and never in free trade agreement limited to regional level. This is also proven by the fact that more than 50 percent of the external trade of the countries from the region is made particularly with EU, the buying power of the EU being much greater and the consumer potential of the European markets being huge. In this perspective EU must continue to assist – maybe even with doubled efforts – the countries from the region in order to facilitate the structural development of their economies, modernize the infrastructure and institutions, revive the transportation and telecommunication infrastructure, etc.

An important provision of the memorandum of liberalization of trade is the fact that it envisages not only the tariff but also non-tariff barriers – i.e. administrative barriers, technical norms, quality standards, certificates of origin and other of this kind, towards which the Balkan states show a special predilection. It is not excluded that some countries from the region will want to keep them, in case of necessity to protect domestic markets. Unfortunately, in the present agreements as well as in the signed memorandum little attention was paid to the mutual services and investments. The countries from the region have certain comparative advantages in the field of some services, primarily in the field of tourism, and in some countries – in the domain of maritime transportation. Like the authors whom I have quoted before recommend, an independent Agency of Regional Settlement should be created in the field of services. In the field of investments the EOCOD Codes of capital circulation and intangible assets should be implemented. We also believe that it would be useful that the agreements stipulate the free circulation of production factors, especially workers. Of course there are risks associated with this proposal, first of all concerning illegal migration – a thing that should be managed through additional agreements.

Any agreement of free regional trade is to a certain extent protectionist and discriminatory towards the third countries, because it implies implementation of some origin rules. Implementation of such origin rules could usually limit the rights of internal consumers to have access to more qualitative goods from outside the free trade zone – goods that are blocked through the institution of origin rules. As a result the free trade agreements, besides the effects of stimulation of trade among the participant countries, will lead to new effects of its embezzlement. The more the first prevail over the latter, the bigger the chances are to increase general wellbeing of the region. In order to maximally diminish the embezzlement effects, I have mentioned that besides the structural modernization that can be accomplished in long term, it is necessary to simultaneously implement (according to the same schedule) equal rules for all the countries, and the liberalization should be uniform for all goods. Furthermore, in order to achieve the strategic effects necessary for the integration of the countries in the EU it is necessary to adjust the legislation, norms and technical standards of all the countries from the region to the community acquis in industry, agriculture and services. In addition, it is necessary that the agriculture and industry be viewed from the same liberal positions, except the fact that agriculture should be

given a longer transition period. There are no serious risks here because the levels of competitiveness are similar, and the small differences will be only stimulative.

## **STABILITY PACT AND ECONOMIC REFORMS. CROATIA VS. MOLDOVA**

*Ana BOROMISA, Institute of Economy, Croatia*

### **The Stability Pact so far**

Given the fact that Mr Bodo Hombach, Special Co-ordinator of the Stability Pact for south-east Europe, has resigned as of the end of the year, it is not a best time to offer experience from other countries as a model. However, it's a good moment to reconsider our goals and priorities for the coming period and to try to adapt them to our needs.

Further, the Stability Pact is *political* initiative, which is focussed on peace, democracy, respect for human rights, and economic prosperity, in order to achieve stability in the whole region.

The strategic goal of the Working table II: Economic Reconstruction, Development and Co-operation was set rather ambitious: to promote prosperity throughout the region and contribute to the progressive integration of the countries into the European and global economy.

In order to achieve this goal, following activities are proposed:

- the reforms in the economic environment,
- creation of liberal environment for trade,
- attracting foreign investments and
- encouraging the growth of a private market based economy

The Pact does not implement the projects, but co-ordinates and facilitates the implementation of the projects of all its partners. Therefore, it is unclear and probably even not possible to conduct the foreseen activities. So, under the Stability Pact projects concerning regional infrastructure, private sector development, intraregional trade, investment compact, business advisory council, environmental issues, e-SEEurope and initiative for social cohesion are launched.

The major<sup>1</sup> results achieved are:

- regional approach to infrastructure (with the Quick Start Package acting as a catalyst, that launched 60 projects: 2 on trade, 34 on regional infrastructure, 1 investment compact, 12 private sector development, 2 vocational education and training, 4 for environment and 5 projects for social dimension)
- signing the Memorandum of Understanding on Trade Liberalisation and facilitation, whose main goal is to complete the network of FTAs by the end of 2002
- Establishment of the Investment Compact, regional forum to identify and remedy shortcomings regarding macroeconomic environment in order to make the countries in the region more attractive to investors.

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<sup>1</sup> Stability Pact- its major achievements

Croatia participates in 9 project of the Stability Pact<sup>2</sup>. Five of them, worth EUR 252,5 mil are under the Working Table II. EUR 252 mil are sponsored by EIB and EBRD, while the European Commission and Canadian International Development Agency contributed EUR 500.000. So, the question is why do we need the Stability Pact, since we would probably have the access to the same loans without it.

## THE FUTURE OF THE STABILITY PACT AND THE ROLE OF THE EU

There are six basic options for the future<sup>3</sup> of the Stability Pact:

- 1) carry on
  - 2) close down
  - 3) leave it to the EU
  - 4) leave it to the region (mostly to the south-east Europe Co-ordination Process)
  - 5) leave it to OSCE
  - 6) restructure
- a) Troika of co-chairs: EU, US and SEECP
  - b) Sharper regional focus
  - c) Donor co-ordination mechanism (stop organising donor conferences)
  - d) Working groups, task forces, etc. (now 200)
  - e) EU role in the region

The future special co-ordinator, likely the former Austrian vice-chancellor Erhard Busek, will certainly have a tough task. But countries in the region, too.

Regardless of the future form of the Stability Pact, the European Union will continue to play a leading role in the Stability Pact<sup>4</sup>. The General Affairs Council agreed that its activities ought to be based on the principles of concentration/refocusing and regional appropriation. It also stressed that Stability pact and the Stabilisation and Association Process are complementary. Further, the EU will try to improve co-ordination between the Pact and the Stabilisation and Association Process activities, by setting up an informal Consultative Committee. A representative of the region, preferably designated by the south-eastern Europe Co-operation Process (SEECP) could be also involved.

Croatia and Moldova are not SEECP members (Croatia having observer status), and Moldova is not involved in the SAP.

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<sup>2</sup> Ministry of Foreign Affairs, Croatia

<sup>3</sup> M.Emerson, N.Whyte, The Future of the Stability Pact, CEPS, Europa South-East Monitor, No 29, November 2001

<sup>4</sup> General Affairs Council, 19.11.2001.

## **Moldova and Croatia in the Stability Pact: common features**

The EU has the leading role in the Stability Pact and gives the anchorage to the region. However, as stated in Cologne declaration, the ultimate success of the Pact depends largely on the efforts of the States concerned to fulfil the objectives of the Pact and to develop regional co-operation through multilateral and bilateral agreements. Accordingly, the integration into the Euro-Atlantic structures can be achieved by effective implementation of necessary reforms and international obligations.

Basically, inclusion into the European integration process is gradually achieved through economic integration with the EU and countries in the region.

The main precondition for establishment contractual relations with the EU is respect for basic democratic principles.

On this, political EU membership criteria are built on.

Croatia and Moldova, both, have institutionalised their relations with the EU. The agreements are different: Partnership and Co-operation Agreement (PCA) between the EU and Moldova are established within the framework of the EU policy towards countries of former Soviet Union, while Stabilisation and Association Agreement (SAA) with Croatia is an instrument for the EU policy towards Western Balkans.

Effective implementation of both agreements is the basis for deepening bilateral relations. Both agreements provide a framework for political relations based on democratic values, including political dialogue. The Agreements' provisions governing goods, services, labour, and capital introduce extensive, legally binding requirements, with considerable implications for the domestic legislation. By doing this, the SAA /PCA helps in bringing domestic regulations in line with the legal framework of the single European market. Both agreements establish bilateral institutions with similar tasks: Council, Committee, and Parliamentary Committee. Depending on the agreement, these bodies have different name (Stabilisation and Association Council vs. Co-operation Council etc.).

The main difference between those two agreements is that SAA provides for establishment of a free trade area, while PCA contains a number of evolutionary clauses.

Similar is however, the EU technical assistance programme. The EU provides technical assistance for Croatia in the framework of CARDS, while Moldova is beneficiary of TACIS programme. Both programmes have national, multi-country and inter-state programmes.

The EU has in 1991-99 provided around EUR 70 million for Moldova, while the aid programme for Croatia was in the same period EUR 367.33million (i.e. 5 times bigger).<

In the difficult period of war and transition, 1991-1995, the EC provided ₤243.2 million to Croatia for humanitarian and relief assistance. Subsequently, in the period 1996-1999, assistance was focused on reconstruction and refugee return. Support was also given for democratisation, the independent media and de-mining. Funding for the 2000 programme amounted to EUR 18.54 million. EUR 10.0 million was allocated to the continuation of efforts to support the process of refugee return. This was based on an integrated approach: resources for reconstruction and rehabilitation of housing, infrastructure but also the provision of services, health and education and activities in the fields of job creation and income generation. In this context, particular attention was given to encouraging the growth of small and micro-enterprises in disadvantaged regions in the sectors of tourism, agriculture, small industry and crafts (₤2.34 million). In the framework of the Tempus programme included in the 2000 allocation, the education sector was supported by activities aimed at curriculum development, university management and in more general terms, institutional support. The 2000 allocation included as well a substantial technical assistance programme (EUR3 million) aimed at building and strengthening capacities at central government level for managing and co-ordinating EU aid programmes.

In 2001, assistance of ₤ 60million will be committed under the new CARDS (Community Assistance for Reconstruction, Development and Stabilisation) Programme.

The Tacis priorities for Moldova in 1996-99 were focused on three areas: food production, processing and distribution, private sector development and human resources development. The 2000-2003 Indicative programme includes three priority sectors: institutional, legal and administrative reform, support for enterprises and assistance for economic development, and social consequences of transition. The budget for 2001 was EUR 21 million.

Both Croatia and Moldova, as newly independent states, experienced economic decline in years after independence. The EU has been an important trading partner for both countries. The main exports to the EU from Croatia and Moldova are similar products: Agricultural and food products and textiles, while main imports from the EU are machinery and electrical products.

Therefore, it can be concluded that there is a scope for improved regional co-operation. Different forms of co-operation could be supported with grants and loans gained in the framework of Stability Pact, provided that effective regional dialogue is established. SEECP is becoming the forum for such discussions, so Moldova and Croatia both should join this process.

## **THE EXTENSION OF THE EUROPEAN UNION TO THE EST – SOME IMPORTANT ISSUES THAT THE REPUBLIC OF MOLDOVA SHOULD CONSIDER**

Dr. Alexandru MURZAC, UNDP Moldova

In the conditions of promotion of the extension of the European Union to the East and the process of signing of Stabilization and Association Agreements between the EU and the states of the Pact of Stability in the Southeastern Europe, important changes in the external position of the Republic of Moldova will take place. These changes will have multiple effects and will have a direct impact on the relations of Moldova with:

- The EU as an institution and entity
- Each of the 15 present members of the EU
- The new members and EU and the EU as a whole
- Romania
- The states of the Pact of Stability in the South-Eastern Europe
- Ukraine, Russia

Since the summer of 2001 the perspective of ending the adherence negotiations with the potential candidates till the end of 2002 has become clear. This is confirmed by the optimistic air in the Report of the European Commission published in November 2001.

In this context, there are real chances that in the near future the extension will come true for the most prepared countries (ten countries) and will continue as a process for the rest of the candidates – Romania and Bulgaria (the ending term of negotiations with the EU is the year 2007).

This will have a direct influence on the entire Europe, but mostly on Moldova that has a very fragile economy.

The process of extension and such instruments as the creation of the free trade zone between the EU and associated states (on the basis of European agreements) and between the associated states (on the basis of CEFTA) have decreased the favors of Moldova on the market of the EU and the appeal to investments. The decrease of the volume of Moldovan exports to the East and Central European states (Tab. 1) resulted in an increase of imports from these states (Tab. 2, year 1999 is an exception because of the financial crisis from 1998: references: Tendintele in economia Moldovei, May 2001).

**Table 1. The exports of the Republic of Moldova to the EEC (mln. USD)**

1995	1996	1997	1998	1999	2000
158.7	129.2	95.7	80.5	82.8	65.1

**Table 2. The imports of the Republic of Moldova from the EEC(mln. USD)**

1995	1996	1997	1998	1999	2000
120.4	139.0	217.7	214.8	143.1	205.2



The external trade of the majority of Central and Eastern countries of Europe is oriented towards the countries of the EU, for certain states of the EEC it represents almost 2/3 of their total external trade. The total volume of exports from CEFTA have increased during 1993 – 1997 (25,4 mlrd ECU – 1993 and 50,5 mlrd ECU – 1997) and the imports of CEFTA from the EU have increased as well (32,3 mlrd ECU – 1993 and 70,4 mlrd ECU in 1997). The greatest weight in these imports is represented by highly processed industrial products that enhance the productive and exporting potentials of CEFTA. The intra-CEFTA trade has increased tremendously as well.

*Some extremely favorable conditions are stipulated as well in the Stabilization and Association Agreement, signed recently between the EU and Croatia. According to the Agreement, Croatia will have a preferential access on the market of the EU, especially for the products that are competitive with Moldovan goods (textiles, processed food products, raw materials, etc.).*

It's obvious the fact that the increase of the registered commercial flows between the EU and EEC countries attract foreign investments, inclusively those from outside Europe, and decrease the investments for the regions that are not involve in the process of integration (the same situation for Moldova).

At the same time, the limited availability of the EU to increase the supporting funds for the states that are not involve in the process of adherence cannot be underestimated. According to the Berlin Budgetary Agreement from 1999, important amounts of money will be allocated in order to support the process of extension till 2006. A massive financing is foreseen for the countries of the Pact of Stability in the Southeastern Europe in the framework of the CARDS program.

In Moldova can be obtained good results in short time, even if the Moldovan economy has small dimensions in the European context and the financing is not substantial. Moldova has to prove its ability to absorb efficiently additional funds. The experience of implementing different projects financed by international financial institutions didn't strengthen the confidence in Moldova as a country capable to administrate the funds of the community without major difficulties and in a transparent way.

Considering the geopolitical situation created after the events of 11 September, the energetic interests of the EU with a view to Russia, the Russian efforts of adherence to the WTO supported by the EU, it is possible to assume that there is an evident progress in the economic relations between Russia and the EU, that can result in the creation of an economic space between the two of them. The consequences of creating such a space will have an impact on Moldova. All these facts show that there are close relations between the EU and Russia that has a form of integration and there is a possibility that the dynamics of this process will affect the relations of Moldova with the EU and Russia. Russia that has become more opened to commercial and economic relations with the EU will decrease the competitive positions of Moldova on the Russian market and the attractiveness of Moldova to the investments of the EU. In such conditions, Moldova will loose its key role between Russia and the EU. The strategy of Russia related to the EU and that of the EU related to Russia, don't preview the possibility of Russia to become a member of the EU. The basic goal is to

strengthen the partnership and the idea of integration into Europe “together with Russia” is senseless.

Moldova will feel the dynamics of the relationship between the EU and Ukraine, especially in the case of adherence of new states from Europe to the EU (Poland, Baltic countries, with which Ukraine has close relationships). Being an important commercial partner to Moldova, the increase of the trade of Ukraine with the EU is 2,5 times greater than the general increase of the external trade of this country and almost 50% of the trade of Ukraine is related to the countries of the EU and its candidates.

Even if Romania for the moment is not in the category of favored countries for the first stage of adherence to the EU (that means that in perspective the most important frontier between the EU and CIS will coincide to the frontier of Poland with Ukraine), she has real chances to enter into the second stage of the adherence process. After the adherence of Romania to the European Union and the taking over of the obligations of the Commercial Policy of the Community, the trade between Romania and Moldova, that at the present time is regulated by the Free Trade Agreement, will depend on the trade system that will be at that moment between the EU and Moldova. The present system (the most favored nation clause) established through the Partnership and Cooperation Agreement will worsen the conditions of trade between Romania and Moldova. On the other side, the conclusion of a Free Trade Agreement between the UE and Moldova at the moment of adherence of Romania to the EU, will save the freedom of trade between Romania and Moldova and may stimulate somehow Romanian investments in Moldova.

**Considering the predictable consequences of the Extension of the EU to the East, Moldova should pay attention to the following aspects:**

The development, strengthen and formalization of political and economic relations between the EU and Moldova in the framework of an agreement more superior than the actual framework of the partnership and cooperation, is very important for Moldova.

It would be useful if this new framework would contain a clear formula relating to the “European future” of the Republic of Moldova as a profound desideratum of Moldova and as a “signal” from the EU. Moldova should achieve its desideratum by issuing strategic documents, institutional measures and daily actions. The EU should launch supporting programs for Moldova (others than existing in the framework of TACIS, may be something similar to CARDS) in order to reduce the gaps between the development level of Moldova and the European norms.

In a short time Moldova will become the immediate neighbor of the EU and will attract the attention of the EU. The stipulation of the plenary integration of Moldova to the EU will offer a superior dimension to the Moldova-EU relations, will influence directly the dynamics of trade and investments flows and will fortify the support of the EU to Moldova.

The affiliation to the EU as an associated member is in the best interests of Moldova as a small country in the process of “adaptation” to the “challenges” of globalization and will improve the external position, security and stability of Moldova.

The main slogan of Moldova in the European integration process would be the phrase of the Great Britain’s Prime – Minister Tony Blair from his speech in Poland in 2000: “In the EU there are no guaranteed places. The reform is the single entry ticket”.

The postponement of reforms doesn’t solve the problem, but worsen it. At the same time, the promotion of Moldova in the process of political, economic and social reforms would let the EU to guide the dynamism of Moldova to a more advanced framework of relations, inclusively by possibility of conclusion of a Stability and Association Agreement. This would shift the Moldovan efforts of integration from a debating level to an operation level.

## **THE DEVELOPMENT OF CROSS BORDER CO-OPERATION WITHIN EURO-REGIONS**

Alexandru MIJA, Ministry of economy

The creation of the “Lower Danube” Euro-region (August, 1998) and the “Upper Prut” Euro-region (September, 2000) with the consent of the presidents of the Republic of Moldova, Romania and Ukraine has the value of an important instrument for the intensification of cross-border collaboration in different fields among territorial-administrative units of these three states.

The activities and constitution agreement of “Lower Danube” and “Upper Prut” Euro-region rest on the following documents:

- European Framework-Convention from Madrid regarding cross-border cooperation of collectivities or territorial authorities;
- bilateral and trilateral Agreements, Treaties and Protocols of Moldova, Ukraine and Romania;
- international conventions joined by the parties;
- bilateral agreements between the local (regional) authorities of Moldova, Ukraine and Romania that are part of Euro-regions.

Local public authorities from Cahul, Edinet and Balti counties participated directly in the constitution of “Upper Prut” and “Lower Danube” Euro-regions with the purpose to consecutively solve two major problems: (I) establishment of good neighbor relations and reciprocally favorable collaboration among the territorial-administrative units of Moldova, Ukraine and Romania, which will contribute to their durable economic and social development, improvement of interethnic relations, and (II) elaboration of efficient cross-border and inter-regional mechanisms and establishment of partnership with territorial-administrative units from other European countries.

Until now important steps were made by common actions in the fields of culture, education, healthcare, sports, tourism, youth, information exchange and local public administration. However, essential changes in economic collaboration that would assure economic growth and acquisitions in local and national budgets have not been made.

The evaluation of social-economic potential of Euro-regions has identified opportunities of cross-border cooperation for Cahul, Balti and Edinet counties in diverse fields, and the following must be mentioned:

- (1) creation of a common informational space concerning economic potential and business opportunities within Euro-regions;
- (2) creation of common structures regarding the facilitation of economic cooperation, coordination of product certification, development of product markets, development of existent economic potential;
- (3) development of infrastructure that would assure the facilitation of border transit and access to international auto, railroad and maritime transport communications;
- (4) development of a common strategy for the development of tourism using the tourist potential of the Euro-regions;

- (5) development of cooperation in the fields of development and research, collaboration relations among the educational institutions, including higher education institutions, intensification of student and faculty exchanges within Euro-regions;
- (6) creation of common centers for training, re-training and employment of the labor force, organization of information exchange within Euro-regions;
- (7) organization of festivals, exhibitions, cultural fairs and regional sports competitions;
- (8) coordination of programs of environmental protection, common accomplishment of projects and common monitoring of pollution factors in the regions.

The identified needs of the Cahul, Edinet and Balti counties in the promotion of cross-border cooperation activities can be grouped into three categories:

- necessities of local public administration;
- necessities related to cooperation framework;
- necessities related to the involvement of civil society in the cross-border cooperation activities.

#### **Necessities of local public administration.**

Cross-border cooperation within Euro-regions is something new for Moldova and, in these conditions, the local representatives as well as civil servants do not have experience or afferent knowledge for the promotion of cross-border cooperation activities. For the supplement of limited budget resources it is necessary to organize some courses that will increase the capacities of the local authorities to capitalize the opportunities of attraction of extra-budgetary funds.

A problem that negatively influences the cross-border cooperation process is the insufficient communication among the partners from the Euro-regions at the level of leaders of territorial-administrative units, as well as at the level of workgroup members and civil servants from the specialized commissions from the county councils. In majority of cases this is due to insufficient or lack of modern means of communication and information transmission in these structures.

#### **Necessities related to cooperation framework.**

At the current stage public authorities, economic agents and civil society are poorly informed about the participation opportunities of the counties in the Euro-regions. This is due to the lack of a system of information collection, systematization and presentation from different fields of activity. Creation of such informational systems will generate information fluxes within Euro-regions and will facilitate the intensification of development of the region and the capitalization of local opportunities. Creation of an information space of the Euro-regions implies the establishment of direct relationships of collaboration among the professional associations and unions, dispersed and decentralized structures from the partner territorial-administrative units.

Meanwhile, the existence of information (even well-organized one) will not bring benefits if it is not accessible for all those who are interested. It is important to also have the necessary means for transmission of the information to the users, which requires the creation of a structure where actors of cross-border cooperation can inform themselves, come up with initiative and projects that are related to the development of the region.

Another problem is that the economic sector from the border counties is poorly developed and needs supporting activities. Creation of Euro-regions should have led to the intensification of exchanges of goods and services among the economic agents from the county, a thing that cannot be confirmed with data in this sense. The capitalization of the opportunities of collaboration by the economic agents is accomplished through the creation of marketing, expert advice and promotion structures.

Significant difficulties in the way of cross-border collaboration are caused by the differences of the legal framework from these three countries. In these conditions it is required to make a study regarding the harmonization of legislation, which could be transmitted ultimately to the central authorities from the Republic of Moldova, Ukraine and Romania. In particular, it is necessary to research and to propose solutions for the diminishing of non-tariff barriers in the trade among the countries of the Euro-regions.

Common studies of opportunities in different fields of collaboration that would serve as a foundation for the necessity and justify the viability of projects have a considerable importance.

**The involvement of civil society.** The complex nature and the profoundness of activities within Euro-regions imply the attraction and involvement of all the forces from the society (citizens, non-governmental organizations, business community, etc.). At the current stage the non-governmental sectors from Cahul, Balti and Edinet counties are underdeveloped and do not have yet the capacity to promote activities of cross-border cooperation at the appropriate level.

Starting from the identified necessities and in order to support the intensification of initiatives of cross-border cooperation the orientation of activities in three strategic directions is imminent:

- strengthening the capacity of the local public administration in the promotion of cross-border cooperation activities;
- consolidation of cooperation framework in the Euro-region;
- attraction and support of the civil society in the cross-border cooperation.

I. In order to strengthen the capacity of the local public administration in promotion of cross-border cooperation activities, the following objectives were established:

- To actively involve the local public administration in cooperation activities;
- To assure the functionality of authorities of local public administration as a factor that contributes to intensification of the processes of cross-border cooperation;

- To consolidate the position of the county councils in the structures of Euro-regions.

In accordance with the stated objectives the following activities are required:

- (a) to increase the level of professionalism of the civil servants and local representatives in the field of cross-border cooperation through the training of civil servants, organization of study visits and exchange of experience, participation in conferences, symposiums and workshops organized by the Association of European Trans-border Regions, publishing of study and synthesis materials addressed to those involved and interested in the cross-border cooperation;
- (b) to support the creation within the county councils of Cahul, Balti, Edinet of services of cross-border cooperation and provide these services with computer equipment and modern means of communication;
- (c) to develop a strategy of integration of the counties in the Euro-region and assist the public authorities in the initial phase of implementation of this strategy.

II. The objectives of consolidation of the cooperation framework within euro-regions are:

- creation of a common information space of the Euro-region;
- establishment of an active partnership among the dispersed and decentralized institutions and services;
- foundation of common structures and organizations that would promote long-term cross-border cooperation;
- consolidation/development of business environment;
- facilitation of access to information, active and permanent information about the cross-border cooperation opportunities.

The main activities related to the specified objectives will be:

- creation of information centers meant to assist businesses and to offer the public diverse information regarding the cooperation opportunities in different fields, to gather the initiatives of collaboration projects that come from the civil society and economic agents, to provide assistance to entrepreneurs in creation of enterprises (including mixed enterprises), to promote products, establish contacts with foreign partners, facilitate exports, management and accounting;
- creation of a Euro-regional information network that will include databases, common information and monitoring systems that will link the departments of county councils, structures, dispersed and decentralized services from the counties;
- development of studies in the field of legal harmonization, as well as studies of opportunities for common projects of cross-border cooperation;

- support and promotion of businesses through the organization of business forums, conferences and thematic seminars, analyze and find solutions to eliminate existent barriers in the way of development of business, as well as identify and capitalize opportunities of collaboration within the Euro-region, organize international fairs and exhibitions;
- promotion of the image of Euro-regions and collaboration opportunities by supporting the activities of information and promotion of Euro-regions in mass media, support the projects regarding creation of the Web site of the Euro-region, TV and Radio programs, publish a paper or magazine of the Euro-region, electronic bulletin of the Euro-region, diverse publications with informative promotional character.

III. The following objectives were identified having as principle the development of civil society:

- encourage and develop non-governmental organizations that express the initiative in the field of cross-border cooperation;
- intensify contacts among non-governmental organizations and local public administration in the field of cross-border collaboration;
- facilitate the partnership of the non-governmental sector in the region with the view of cooperation in the field of social activism and finding solutions;
- develop the managerial and action capacity of non-governmental organizations.

The activities driven by the mentioned activities are:

- strengthen the capacity of civil society by launching a program of grants addressed to consolidation of cross-border component of the non-governmental organizations and finance training programs in different fields of great interest with the purpose of improving the activities of the members of non-governmental organizations – promoters of cross-border collaboration activities (managers, employees and volunteers);
- support the common Euro-regional manifestations by assisting partnership among the non-governmental organizations from Moldova and similar organizations from the Euro-region in order to organize common activities in the social field, environmental, cultural and educational and sport.



## **THE POLICIES OF ENVIRONMENTAL PROTECTION OF THE REPUBLIC OF MOLDOVA**

Nicolae STRATAN, Deputy Minister of Ecology, Constructions and Territorial Development

The Ministry of Ecology, Constructions and Territorial Development is the central specialized institution of the public administration that promotes the state policy in the field of environmental protection, durable utilization of natural resources, preservation of biodiversity, arrangement of territory, architecture and urbanism, constructions, the industry of construction materials, apartments and communal services, respecting the principles of local autonomy.

The reform of all the realms of the national economy in the period of transition to market economy has conditioned, besides the solution of numerous economic, social and environmental problems, a necessity for reasonable use of environmental factors and natural resources.

The fundamentals of the environmental policy in the period of transition to market economy were established by the Law regarding the Environmental Protection (1993), The Concept of Environmental Protection of the Republic of Moldova (1995), The National Strategic Plan of Actions in the field of Environment (1995) and the National Plan of Actions in the Field of Environment (1996).

Subsequently, a series of legislative and normative acts, strategies and programs concerning the environment were developed and approved. We can mention the finalization of five strategic documents and programs: the Concept of Environmental Policy, the Strategy of Preservation of Biodiversity, the Program of reduction of atmospheric pollution by motor-vehicles, the National Program of Development of Hydro-meteorological Activity in the Republic of Moldova for 2002-2006, the National Program of capitalization of the production and household residuals.

The necessity of promotion of a common policy in the field of environment and the use of natural resources, integration and application of ecologic requirements in the process of reformation of national economy, decentralization of the functions of state institutions, political orientation towards European integration – all these objectives have conditioned the necessity of revision of the existent policy regarding the environment, and development of a new conceptual document in this field.

In this regard, the Ministry developed a new project of the concept of environmental policy, which was approved by the Government and Parliament in the first reading. The approval of this Concept is important in the process of transition to market economy, which requires the implementation of principles of durable development, provide a stable development of economy with the respect towards the social and ecologic requirements. The main objective of the environmental policy is the prevention and the reduction of the negative impact of the economic activity on the environmental factor and natural resources, in the context of durable development of the country.

The main emphasis in the activities of environmental protection in Europe is set on the reformation of the institutional and legal frameworks in the field. The extension of the process “An Environment for Europe” in the CIS space conditions the necessity of reformation of the policies and priority activities in the field of environment and natural resources, their adjustment to the regional and global requirements in the field.

The following directions of the environmental policy of the Republic of Moldova are prioritized:

1. Expansion of inter-ministerial collaboration :

- development of the action plans of sectors, considering the strategic provisions of the major national documents mentioned above (in order to assure a stable development of agriculture, promotion of international quality requirements, the Ministry actively involved in the process of development of the National Concept of production of Agricultural products using ecologic technologies);
- implementation of inter-sector approach in the decision-making process (agreements of collaboration were concluded with the Ministry of Defense, Ministry of Health, the Ministry of Culture, Education and Science and with the Social Investment Fund from Moldova);
- integration of ecological requirements in the strategies of development of the sectors of national economy (additions and modifications were applied to the Statistic Ecologic Registrar (RES))

2. Consolidation of managerial and institutional potential:

- revision of the sphere of competence and structural reorganization of the institutions that manage environmental and natural resources;
- decentralization of the management of natural potential, clear delimitation of the local public authority competence in the field, considering the increase of effectiveness of managerial actions (A Settlement-model was developed regarding the function of the Sections dealing with environmental protection and management of natural resources within the County Councils).
- implementation of zonal approach in the environmental management;
- improvement of economic mechanisms of environmental protection and rational use of the natural resources;
- revision of the present legislative and normative acts, adjustment or development, depending on the situation, of mechanisms of their application (the Law regarding the environmental rehabilitation through the foresting of the degraded and unproductive terrains (Official Monitor, no.141-143, 09.11.2000), the Law regarding the modification of the Code concerning administrative contraventions and the Criminal Code);
- harmonization of the legislative and normative base with the one from European Union.

3. The settlement of the impact, prevention of pollution, desiccation of the environment:

3.1. Environmental management at the enterprises and ecologic certification:

- elaboration of normative documents afferent to the Subsystem of ecologic certification;
- implementation of certification for the systems of environmental management, and for the processes and products with a negative impact on the environment;
- evaluation of the impact on the environment at the privatized enterprises and in case of property change;
- implementation of ecological audit for the enterprises, development of the requirements for the training and certification of environmental auditors;
- implementation of ecological insurance;
- increase of energetic efficiency through the introduction of technologies for energy preservation, use of non-traditional sources of energy (biogas, Aeolian, solar and water energy)
- coordination of fulfillment of the provisions of the State Program for capitalization of production and household waste (approved by the Governmental Decision no.606 from 28.06.2000);
- promotion of ecologically pure production;

3.2. Restoration and maintenance of the natural potential:

- reasonable use and protection of water resources, arrangement of protection zones at the water reservoirs, assurance of the access of the population to potable water;
- protection and the increase of soil productivity, the use of biologic resources in the limit of their regeneration capacity;
- creation of an ecologic framework of the country, accomplishment of actions of rehabilitation of the forests (expansion of green areas, stimulation of planting protection forests);
- implementation of zonal approach to territorial arrangement;
- ecological reconstruction of the degraded natural ecosystems, protection of the endangered and degrading ones;
- foundation of the first national park “Orhei” and the bio-spherical preservation “Lower Danube”, applying the status of damp zones to some representative areas;
- foundation of a cross-border preservation managed in common by Moldova, Romania and Ukraine, in the delta of the Danube and Prut rivers;
- creation of the national park „ Inferior Nistru”.

The Strategy of financing environmental protection (section on providing potable water and sewage), which was developed within the Project of the Organization for Economic Cooperation and Development, supported and financed by the Government of Denmark, is being in the process of approval.

The objectives of the Strategy are oriented to:

- evaluation of financing necessities in the field and of possibilities of maintaining a sufficient level of services;
- mobilization of internal financial resources and the attraction of external investment for the sector of water supply and sewage;

- promotion of organizational and institutional reforms in order to reduce the expenses in the mentioned sector and increase the efficiency of its activity.

There are projects of legislation in different stages of approval, regarding the biological security, ecologic agriculture, ecologic insurance, settlement of economic and social activities with impact on the environment, harmonization of some legislation with the new conditions of activity, etc.

The following accomplishments in the field were achieved:

- six projects of Governmental Decisions related to the environment regarding the export of wood, the cultivation of walnut, the implementation of the Strategy for the preservation of biodiversity;
- over 20 settlements and materials for certain activities of the subdivisions of the Ministry of Ecology, Constructions and Territorial Development;
- creation of the National Committee to prepare for the participation of Moldova at the Reunion regarding durable development from Johannesburg, 2002.

Currently, the Ministry of Ecology, Constructions and Territorial Development focuses its activities on the following major issues in the field of environment:

- integration of the issues of protection, restoration and preservation of the natural environment in the activities of arrangement of national territory and in the plans of socio-economic development of the country;
- reduction of the level of pollution and degradation of the environment and inefficient use of the natural resources through the measures of increasing ecologic and economic efficiency of the energetic, agricultural, industrial, etc. sectors;
- modernization and continuous increase of the efficiency of the system assuring ecologic security of the population, integrity of natural living environment and the functioning of society in order to reach specific results in a short term and assuring the progress in medium and long terms.

Promotion of a unique policy in the field of environmental protection represents an actual requirement connected with the consolidation of the course of the country towards a stable development and European integration, and with the intensification of international collaboration. This will allow the achievement of the objectives of assuring ecologic security of the population, improvement of the situation of the environment and will contribute to the vitalization of the sectors of national economy and to the solution of problems of social nature.

In the period 1995-2000, in the countries from the CIS the process “An Environment for Europe” became very popular. The Republic of Moldova actively participated in this process, being represented at the highest level in the Committee for Environmental Policy of the EEC, UN, Special Workgroup of the OECD, the European Committee for Environment and Health. There have been developed and implemented projects supported by the World Bank, TACIS Program, United Nations Development Program, Global Environment Fund, Organization for Economic Collaboration and Development, the Government of Denmark, etc.

The international collaboration of the Republic of Moldova based on international conventions, agreements and protocols (Agreement of partnership and collaboration with the European Union, the agreement of collaboration with Romania), has become an active part of the activities related to the environment at the national and regional levels.

Republic of Moldova is part of 15 conventions in the field of environmental protection and benefits from informational, technical and financial support, for the accomplishment of the provisions of the given conventions on the territory of the Republic of Moldova through experience exchange, participation in different international meetings and implementation of some projects.

Due to the assistance provided by the Government of Denmark in 1996-2001, the accomplishment of six projects became possible. This activity was directed for the solution of the problems in the prioritized fields, such as rehabilitation of water supply systems, financing of the activities in the field of environmental protection and facilitation of the access of the large public to the information concerning the environment, attraction of the public to the process of development and adoption of decisions and access to justice in the field of environment. Within this projects, an evaluation was made of the possibility of improvement of the efficiency and quality of water supply and recycling of sewage waters from the Chisinau Municipality, Moldova received the technical assistance for the implementation of the provisions of the Convention from Aarhus. A series of complex activities were started within the last project, which were meant for the accomplishment of the provisions of the first pillar of the Aarhus Convention – the right of the public to be informed on the environmental issues.

The Program of Collaboration between Denmark and Moldova for the period of 2001-2003 was recently approved. The given program is focused on the most prioritized issue from our country – the quality of water and potable water supply, and in special the rehabilitation of the water supply systems and sewage for Borciag, Chircaiesti and Edinet localities.

The Project envisions very specific activities:

- improvement of the environmental management;
- demonstrative activities;
- improvement of inter-ministerial cooperation
- strengthening the link between the institutions of central public administration and the institution of local public administration;
- improvement of the system of financing in the field of environment;

For the first time, in collaboration with the Ministry of Environment from France and with the French Institute of Environment, a project of creation of a Center of Information in the field of water resources of the country was launched.

Two projects are being implemented in approximately 20 industrial enterprises from Chisinau, Balti and other industrial centers: Moldovan - Czech and Moldovan - Norwegian projects of transition to a Pure Production.

There have been developed and presented to international organizations for examination and financing about 10 projects of increase of efficiency of the energetic sector with the reduction of emanations of dangerous and greenhouse gasses, of use of renewable sources of energy, rehabilitation of forests, etc.

As a result of the mentioned actions, the Republic of Moldova is improving the legal and institutional framework by adjusting it to the provisions of the international conventions and to the legislation of the European Union, and is taking practical actions for their realization on the territory of the Republic of Moldova, benefiting from the financial, technical and logistic support from international organizations and donor countries.

The international collaboration in environmental issues in the future will be focused on the following:

- development of the Concept regarding international relations in environmental matters;
- political orientation towards European Integration with an emphasis on harmonization, strategies and programs in this field;
- development and realization of the mechanisms for the implementation of the provision of conventions and other international documents in the field of environmental protection and ratification of new conventions;
- signing of bilateral collaboration Protocols with Romania, Ukraine, Byelorussia, Russian Federation.

In order to achieve the fundamental objectives in the future the Ministry will:

- promote the implementation of the Concept of Environmental Policy of the Republic of Moldova;
- analyze the activity of subdivisions with specific conclusions and proposals for their activation and increase of their efficiency;
- rush the development of local plans in the field of environmental protection, management of waste;
- extend the number of enterprises that will implement the principles of pure production;
- develop principles of fighting environmental pollution with persistent organic substances;
- develop the plan of actions regarding the increase of economic and ecologic efficiency of the energetic and processing sectors;
- elaborate the Concept of the Strategy of use of natural resources;
- modify and amend a series of laws concerning the environment in order to harmonize them with the actual and regional requirements;

- Considering the mentioned issues in the field of environmental protection and improvement and in the management of natural resources, the following activities are prioritized for the future:
- consolidation of the institutional and managerial potential, including the harmonization of the legislative and normative base of the Republic of Moldova with the respective legislation of the European Union;
- settlement of the impact of economic activities on the environment, prevention of its pollution and desiccation;
- implementation of environmental management and ecologic certification, including through the accomplishment of the provisions of the State Program of capitalization of the production and household waste;
- rehabilitation and maintenance of the natural potential, including through creation of protected cross-border natural areas, managed in common by Moldova, Ukraine and Romania;
- improvement of the means of use of natural resources through a durable and harmless exploitation of the environment;
- intensification of international collaboration on environmental issues through the conclusion of new bilateral and multilateral interstate agreements and with the international organizations, including on the issues of fighting global harmful phenomena (deterioration of ozone layer, climate change, desertification, etc.);
- facilitation of access to information, justice and of public participation (including through nongovernmental organizations) in the decision-making process regarding environment, through the creation of an informational and legal base;
- continuous ecological education of the population, intensification of scientific research in the field of ecology, environmental protection and management of natural resources.

The economic development of the Republic of Moldova will be based on the principles of durable development of all the natural components: air, water, soil, biodiversity, forests, underground resources. Among these, soil is of special importance for the national economy and constitutes the main natural resource of the country. Water has an exceptional importance as well, being the fundamental element of life and water reserves in the republic are far from sufficient. This is why special attention should be paid to attraction of investments in the field of water supply of the population.

Due to the fact that the territory of the country, especially the terrains used in agriculture are challenged by erosion processes the following actions are planned in conformity with the recommendations of the World Charter of Soils, developed by UNESCO, UNEP and FAO:

- development and adoption of the Law of Soil;
- development and adoption of a complex national program meant to increase the fertility of the soils, reasonably use the soils and develop subprograms at the county level;

The economic progress is impossible in conditions of water insufficiency that the Republic of Moldova is facing with, this is why the principles of durable use of waters will be applied. These principles are exposed in the Article 130 of the Fundamental Treaty of the European Union, which stipulates: the integrated use of water resources; establishment of minimum limit for the emission of pollutants; delimitation of sensible areas; verification and monitoring of the problems related to water quality, transparency and participation of public in the decision-making process.

Subsequently, with the respect of the legislation and international standards, will be intensified the activity for obtaining the subsidies from different international sources with ecologic profile, including for the assistance in the accomplishment of regional programs within euro-regions, created in common with Ukraine and Romania: co-financing of the ECOPROFIT Project accomplished within UNIDO/UNEP programs; creation of infrastructure for the implementation of the ISO 14000 standards for the management of the environmental situation; development and accomplishment of regional programs of improvement of the potable water quality; support of nongovernmental organization's activities of ecologic orientation; support of agricultural technologies oriented to the maintenance, protection and improvement of the natural potential of the territories.

In order to facilitate the participation of Moldova in the Stability Pact for South-Eastern Europe in October 2001 the Ministry developed 12 projects in accordance with the prioritized activities in the field of environmental protection. These projects have been presented for accomplishment within National Strategy of eradication of poverty and National Strategy for the reformation of the public sector.



## **ABOUT SOME PRIORITY DIRECTIONS OF DEVELOPMENT OF ENERGETIC INFRASTRUCTURE OF THE REPUBLIC OF MOLDOVA ON MEDIUM AND LONG TERMS**

Dr. Ilie TIMOFTE, Ministry of Energy

The document of constitution of the Stability Pact for the South-Eastern Europe, adopted on June 10<sup>th</sup>, 1999 from the initiative of European Union and officially launched in Sarajevo on July 30<sup>th</sup>, 1999, is meant to support the South-Eastern European countries, including Moldova, in achieving economic prosperity. Considering the fact that the Workshop no. 2 “Economic reconstruction, cooperation and development” of this Pact approaches and solves the problems related to the future of the South-Eastern European region and establishes the priorities and the content of this field in collaboration with other countries, I would like to present in this conference, “The participation of Moldova in the Stability Pact – a factor of acceleration of socio-economic reforms”, the following communiqué about some priority directions in the development of energetic infrastructure of the Republic of Moldova on long and medium terms.

### **1. The economic evolution of the Republic of Moldova in 1995-2000**

At the end of the year 2000 and beginning of 2001, and even up to the present, after 10 years of transition the Republic of Moldova continues to confront serious difficulties, with a lengthy economic recession that has an impact on all the spheres of the society.

In the year 2000, it was managed to contour a tendency of stabilization at the macroeconomic level, achieving an increase of the GDP with 1.9 percent. The nominal value of the Gross Domestic Product constituted 353 US Dollars per capita. This growth, although it cannot be considered a high performance, occurred due to the promotion of a consequent policy of reforms and restructuring in the fundamental sectors of the national economy, such as agriculture, industry, energetic sector, etc., equilibrated budgetary policies, the initiation of the bankruptcy procedures of some enterprises that were generating losses, intensification of the activities of attraction and promotion of investments and other activities of institutional, economic and organizational nature. The basic indices related to the evolution of the economy of the Republic of Moldova in the period between 1995 and 2000 are shown in Table 1 (according to the data from the Ministry of Economy).

Table 1

	Unit of measure ment	Years					
		1995	1996	1997	1998	1999	2000
Gross Domestic Product (GDP) nominal	Million Lei million USD	64801440	77981695	89171928	91221698	123221172	159801285
GDP per capita	\$ USD	400	470	527	465	318	353
Rate of Inflation at the end of the year	%	23.8	15.1	11.2	18.3	43.7	18.4
Annual average exchange rate of the national currency	Lei/USD	4.5	4.6	4.6	5.4	10.5	12.43
Consolidated Budget: Income Expenses	Million Lei Million Lei	20022375.9	2074.22827	2941.73608.4	2721.93027.1	3100.33495.3	4046.24225.7
Internal state debt (at the end of the year) Share in GDP (% of GDP)	Million USD %	1067.4	1619.5	21211.0	29217.2	18115.5	16312.7
External Debt (at the end of the year) Share in GDP (% of GDP)	Million USD %	84058.3	106863	127366	145285.5	1475125.9	1492116.1
Number of population (at the end of the year)	Th. persons	3671.8	3663.7	3655	3649.3	3643.5	3634.5
Number of employed (annual average)	Th. persons	1294	1211	1127	1033	932	840
Nominal salary of a person activating in economy (monthly average)	lei	143.2	187.1	219.8	250.4	303.4	407
Minimum living expenses covered by an average salary	%	46.1	48.2	50.0	52.9	45.0	43.0
Number of pensioners (at the end of the year)	Th. persons	781	784	786	788	758	758.6
Average monthly pension	lei	64.3	78.7	82.8	43.9	82.8	84
Industrial production (in present prices) compared to the previous year	Million Lei %	426596.1	469093.5	5889100	598285	719188.4	8750102.3
Agricultural production (in present prices) compared to the previous year	Million Lei %	4243102	463988	5100111	477588	639691.6	807097.4

## **2. The reform of power sector**

The power sector is affected by the gap between the demand and offer, by the insufficiency of domestic and external investments and by the ruination of the production potential. In such a situation the state mission in the field of power supply is to create and assure the necessary conditions for an efficient activity of the power enterprises, regardless of their form of property, in order to provide a secure supply of electrical power and combustibles to the consumers, at reasonable prices and with an admissible impact on the environment.

Considering this fact, at present as well as in medium-term prospective the priority strategic objectives of the national energetic policy are:

- restructuring and finalization of the process of privatization of the power sector and the creation of energy market;
- promotion of power efficiency, energy preservation;
- assurance of energetic security of the state;
- protection of natural environment.

These strategic objectives will be achieved in the future through:

- de-monopolization of the power sector, its predominant privatization and the promotion of competition on the market of energetic resources, a fact that will contribute to the increase of energetic efficiency, reduction of costs, implementation of efficient energetic technologies with a minimum impact on the environment, elimination of debts and normalization of financial situation of the energetic enterprises, attraction of private investments for the rehabilitation and construction of energetic objectives;
- promotion of a consequent policy of energy preservation, including of utilization of the renewable resources (solar, Aeolian energy, biogas); diversification of the sources of import of energy resources; renovation and increase of own competitive capacities of electric power production, strengthening the energetic interconnections with the countries from the East and West; development of gas ducts and finalization of the construction of the Giurgiulesti Petrol Terminal; development of legislation and normative framework in the field of energetic; alignment with the European standards and norms of environmental pollution.

As a result of the reforms in the power sector carried out in the Republic of Moldova in the last 10 years, some successes were achieved, such as: the reform of the structure of property, creation of legislative and institutional framework for assuring the functioning efficiency of the power sector. The legal support of these reforms is sufficient. However, the sudden transition to market economy in the power sector occurred in conditions of insufficient training of the management and personnel from the sector to activate in these new conditions.

### 3. The evolution of consumption of energy resources

The situation of consumption of energy resources can be elucidated using the results of the analysis of the energetic balance of the national economy, which represents the main method in learning the exact technical and economic performance in all the component parts of the republican energetic sector.

The present situation of the national economy makes it difficult to accomplish and thoroughly analyze the complete republican energetic balance. In a simplified way, the situation of the activity related to the consumption of energetic resources in the country in the year 2000 is reflected in Table 2 (according to the data provided by the Department of Statistics and Sociology).

Table 2

Nr. d/r	Indices	Total (resources, distribution)	Including loss, % from total distribution
1.	Coal, thousand tons	194	-
2.	Diesel fuel, thousand tons	213	0.47
3.	Solid fuel, thousand tons	20	-
4.	Fuel oil, thousand tons	67	3.0
5.	Gasoline, thousand tons	139	0.72
6.	Kerosene, thousand tons	22	-
7.	Natural Gas, million m <sup>3</sup>	1058	9.64
8.	Liquefied Gas, thousand tons	44	2.27
9.	Firewood, thousand m <sup>3</sup>	287	-
10.	Wood waste and agricultural waste, th. tons	24	4.17
11.	Electric power, million kWh	3379	33.59
12.	Thermo energy, thousand Gkal	3057	12.53
13.	Total consumption, thousand tons	2377	-

The facts shown in the table illustrate that in the national economy of the Republic of Moldova in the year 2000, 2377 thousands tons of conventional fuel was consumed. The energetic intensity of the Gross Domestic Product (GDP) being of 1,889 kg of conventional fuel/1 US Dollar. For comparison I would like to mention that the energetic intensity of the GDP in 1995 was 1,853 of conventional fuel/1 USD. So, in five years the energetic intensity of the GDP increased with 2 percent. To what concerns the losses of energy and combustibles in the national economy, the most substantial losses are attested for electric power - 33,59 %, thermal energy - 12,53 %, natural gas - 9,64 %, fuel oil - 3 %. This data determines the reserves and the priority activities in the field of efficient use of energy and fuel through the reduction of losses. Another reserve and activity in the field of efficient use of energy and traditional fuel is the utilization of local resources, including the renewable ones.

The necessity of activity related to the efficient use of energy and fuel is dictated by the fact that the Republic of Moldova, basically lacking primary energetic resources, imports under different forms the majority of the resources, including electric power. The structure of “sources” section of the republican energetic balance for 1999 is shown in Table 3 (according to the data provided by the Department of Statistics and Sociology (DSS)).

Table 3

Energetic Resources	According to D.S.S.		According to the estimation of specialists	
	Thousand tons	%	Thousand tons	%
1	2	3	4	5
I. Imported				
Natural Gas	1848	55	1848	46
Petroleum Products	741	22	1140	28
Coal	284	8,5	284	7,0
Electric Power	321	9,6	321	7,9
II. Local (own) resources				
Hydro-energy	30	0,9	30	0,7
Agricultural waste	17	0,5	17	0,4
Wood waste	99	2,9	400	9,9
Total: imported	3194	95,7	3953	89,0
Local resources	146	4,3	447	11,0
In total	3340	100	4400	100

The aggravation of the energetic situation from the country incites a obvious interest towards research and use of local energy resources, due to increasing costs of the consumption of imported fuel. According to the data provided by the Department of Statistics and Sociology (DSS), the share of local energy resources in 1997 was constituted 4.3 percent, from which the wood waste – 2.9%, agricultural waste – 0.5% and energy produced at the hydroelectric plants – 0.9%. According to the estimations of the specialists, the local energy resources are a lot larger – approximately 11 %. Thus, the data from the table 2 demonstrates that the integral use of these resources represents another priority issue in the field of efficient use of energy and fuel - the substitution of expensive and precious hydrocarbons.

The institution responsible for the coordination of the activity of efficient use of energy resources in the national economy is the National Agency for Energy Preservation (NAEP). This institution was founded in 1994 and until present, its activity is focused on the appreciation of the situation particularly within enterprises with the development of proposals for their modernization and re-equipment. To what concerns the activity in different branches and nationwide, the activity of this institution is satisfactory. Despite the efforts made by this institution, the energetic efficiency continues to decrease. The improvement of the created situation is possible only through the direct involvement of the state in this activity through development and implementation of appropriate normative and legislative acts. The fundamental

document in the activity of efficient use of the energy resources in the national economy is the Law regarding Energy Preservation, no. 1136-XIV from July 13<sup>th</sup>, 2000.

This activity of political nature promoted by the Ministry of Energy is based on the following principles:

1. Obligatory accomplishment of the measures related to the efficient use of energy by all economic agents.
2. Joining of the interests of consumers, suppliers and producers of energy resources, provision of economic incentives for their efficient use.
3. Accomplishment of state control related to the efficiency of use of energy resources.
4. Scientific assurance of the activities of efficient energy resources use.

The data indicated in tables 1,3 demonstrates that there was a 2 percent increase in the energetic intensity of the GDP in the period of 1995-2000. I would like to mention though that during this period of time, the consumption of electric power rapidly decreased from kWh/person to 623 kWh/person (by 3 times). The consumption of fuel also decreased - from 1560 kg conventional fuel/ person to 660 kg/ person (by 2.36 times ). For your information, the average global consumption constitutes approximately 2700 kg of fuel per person.

The National Agency for Energy Preservation, being the competent authority in the field of efficient use of energy, is responsible for the practical accomplishment of the provisions of the Law regarding Energy Preservation; however, the National Program for Energy Preservation has not been developed yet. Still not elaborated are the normative acts concerning the execution of this law, such as the establishment of responsibility of physical and legal entities for the disrespect of the provisions of this law, the costs of the services regarding the accomplishment of state expertise and audit in the field of efficient use of energy are not established. The National Fond for the efficient use of energy has not been created so far, etc.

The accomplishment of the activity of efficient use of energy and fuel through the mentioned means is also achieved through the use of other documents of the legal and normative framework, including in the electro-energetic sector this activity is settled by the Law “regarding Electric Power”, in the field of natural gases – by the law “regarding gases”, in the energetic sector of the country – by the law “regarding energetics”, in the field of petrol – by the law “regarding the market of petroleum products”, in the thermo-energetic sector – by the almost finalized law regarding the thermal energy”, etc.

#### ***4. Strategic objectives of the activity of efficient use of energy resources***

The strategic objectives in the activity of increasing the efficiency of the consumption of energy and fuel are determined by the National Strategy for a Durable Development, the Energetic Strategy of the Republic of Moldova until 2010, the Program of activity of the Government for 2001-2004, Strategy of Economic Development of the Republic of Moldova until 2010.

The Program of activity of the Moldovan Government for 2001-2004 anticipates a 7.5 percent-annual growth of the GDP and 2.5 percent growth of energy consumption (considering the present energetic share of GDP, which constitutes 30 percent). At the same time, the Energetic Strategy of the Republic of Moldova until 2010, adopted through a Governmental Decision from 11.04.2000 foresees **a 2-3 percent annual average decrease of energetic intensity until 2010.**

Theoretically this would lead to a doubling of the GDP without the growth of the consumption of energy resources. The achievement of the mentioned scenario will be very difficult and requires unordinary and drastic efforts on behalf of the state.

In the activity of achievement of the proposed objective THE MISSION OF THE STATE in this field is to assure the necessary conditions for the energy consumers in their activity of launch and accomplishment of the projects of energy efficiency, and the OBLIGATION OF THE CONSUMER of energy is the alignment to world standards related to particular energy consumption, especially to the standards of the countries from the European Union.

The final goal (the period until 2010) of the *strategic objective* in the field of efficiency of energy consumption can be appreciated on two levels:

**Theoretical level** – indices established by appropriate Decisions of the Government of the Republic of Moldova: *The doubling of the GDP while maintaining the energy consumption at the level of the year 2000;*

**Real level** - estimated according to the possibilities of the energetic market from the country and to the deviations of the energy and fuel market within CIS countries: *The doubling of the GDP with a 20 % increase of the energy consumption compared to the year 2000.*

The experience accumulated by the states that efficiently promote such activities for 20-30 years demonstrates that it is extremely difficult to provide incentives for the consumers to use their own sources (when these exist) in the accomplishment of the measures of energetic efficiency, even in cases when the effect is obvious, because the foreseen effect and the period of reimbursement is long (2-5 years) and the cashing of the resulted economic effect is problematic. A successful accomplishment of this activity can be achieved only through the approval of the set of legislative and normative acts that correspond to the economic and financial situation of the country.

## **5. Collaboration with Romania on energy issues**

Within the Stability Pact for the South-Eastern Europe a priority direction for the Republic of Moldova in the energy field is the collaboration with Romania. This collaboration is accomplished within the Committee for the relations of the Republic of Moldova with Romania and the Inter-ministerial Committee for the relations of Romania with the Republic of Moldova.

The following actions were suggested at the reunions of the mentioned Committees:

- Allocation of financial resources for the construction of the Falciu-Cantemir aerial power line (APL) with a voltage of 110 kV. The necessary sources from the state budget for the year 2000 were not found.
- Accomplishment of a study related to the possibilities of exploitation of the Vulcanesti-Dobruja (Bulgaria) APL-400kV and APL-750 kV from the Nuclear Power Plant (NPP) from Southern Ukraine and NPP from Cernavoda (România) in order to suit the necessities of Moldova in electric power. The problem remains unsolved (Bulgaria's position is unclear).
- Cooperation in the field of supply of petroleum products. Back in 1998 the former Department of Energy, Energy Resources and Fuel, addressed ROMPETROL JSC with the purpose to accomplish a study of opportunities regarding the creation of an energy knot in the Southern part of the Republic of Moldova. The problem is unsolved. Its solution depends on the successes of construction of the Giurgiulesti Petrol Terminal, on the results of works of exploitation of petrol and gas resources from the Lower Prut area and on the accomplishment of the project of transiting petrol from the Caspian Sea to Western Europe (TRACECA Project).
- Interconnection of gas systems of the Republic of Moldova and Romania through the Drochia-Ungheni-Iasi pipe that is to be constructed. The problem is not solved because of the lack of financial resources and the final decision on this issue.
- Elaboration in common of the strategy and programs of development of energy sectors of both countries. However, these documents continue to be developed separately.

## **6. Adherence of the Republic of Moldova to the East-West Interconnected Power System.**

The energetic system of the Republic of Moldova possesses the power lines for the interconnection with the energetic system of Ukraine (13 lines with a tension of 110 kV, 5 power lines with a tension of 130 kV, Romania (3 lines of 110 kV) and with Bulgaria (one 400kV power line).

According to the energetic strategy of the Republic of Moldova, until 2010 accomplishment of certain measures are planned regarding the adherence of Moldova to the East-West Interconnected Electro-energetic System. This is dictated by the fact that during the last years in Europe there was a trend of expansion of interconnections between the electro-energetic systems. The regional cooperation is developing. At the present time efforts are made for the creation of the Trans-European Interconnected electro-energetic system of the countries from the Eastern, Central, Northern and South-Eastern Europe. From the strategic point of view, the energetic European systems will function simultaneously. The central role in the accomplishment of this integration respectively goes to UCTE in the West, and the Russian electro-energetic system in the East. The neighbor countries Romania and Ukraine are actively involved in the process of creation of the East-West Interconnected Electro-energetic System. The Republic of Moldova is interested in the participation in the general European process of integration of electro-energetic systems. All the responsibilities related to the advancement and the achievement of this strategic objective is assumed by the Ministry of Energy. For this it is necessary to develop a plan of priority actions



for the adherence of Moldova to this system. The mentioned priority directions for a medium and long-term development of Moldovan energetic infrastructure, can be useful for the participants in the Stability Pact, since the energetic strategies of the countries from the Pact are required to be adjusted and assure an efficient activity of the energetic infrastructure of the Republic of Moldova as well as of the countries from the region.

## **THE REFORM OF THE SECURITY SECTOR**

Gheorghe POPA, Deputy Minister of Defence

Dear Mr. Moderator!

Dear participants to the Conference!

Dear guests!

According to its geographic position, history, tradition, culture, the Republic of Moldova is a European state, which aspires to a fruitful collaboration development and to profound relations with the states from the region.

Geographically the Republic of Moldova is placed in the south-eastern part of the Europe, in a zone that forms a vicious circle with a violent predisposition and with a deficit of democracy.

The Stability Pact is a serious attempt of the international community to create a coherent strategy on long term in order to prevent the conflicts in the south-eastern Europe.

This framework is based on the experience and lessons of the management of the international crises. The prevention of the conflicts and the maintaining of peace may end successfully if there were taken actions simultaneously in three key sectors: the creation of a stable and safe security medium, promotion of democratic systems, the economic and social welfare.

Only if there were some successes in these three sectors we could talk about a durable peace.

Further collaboration and the sense of affirmation of the external and security policy of the states from the region depend on the success of the Stability Pact.

The inclusion of the Republic of Moldova into the Stability Pact opens access to its programs, projects, activities which will eventually facilitate the common solving of the problems the states from the region have to face and it will not be isolated from the processes of stability and security strengthening in the south-eastern Europe.

The interest of the Republic of Moldova towards the Stability Pact is determined, first of all, by the advantages the pact offers in order to solve the acute problems which Republic of Moldova confronts with, and especially, by the full perspectives it gives to the south-eastern European states.

The main objectives:

- The establishment of a legislative framework for the promotion of political dialogue at bilateral and regional level.
- The support of the efforts regarding the consolidation of democracy, of the state of right, of economic development, of the regional cooperation and of the reforms promotion.

The processes of integration and cooperation which take place in Europe put first and foremost the assurance of international security and impose new models of behavior and living of every nation on the continent.

The Republic of Moldova can not stay outside the processes of security and peace consolidation in the region.

Taking into consideration the sphere of activity of the working table No. III, namely of the subdivision “Security and Defense”, having as purpose one of the paramount spheres of this table, such as “the Reform in the sphere of security”, I would like to speak briefly about the military security and to survey the main directions of the military reform in the Republic of Moldova.

The president of the country – the Supreme Commander of the Armed Forces, declared this year the beginning of the military reform previously approved by the Government.

In its content the military reform in the Republic of Moldova reflects the radical geopolitical and military- strategic modifications that emerged as a result of the evolution of the security medium in the world and on the continent.

The specific character of these changes is determined by the conditions of profound reforming of the whole society, by the social and economic crisis, by the limited financial possibilities of the state.

The military reform of the armed forces of the Republic of Moldova is a totality of quantitative and qualitative transformations of the military body of the state. These modifications have as a purpose to make the military institutes correspond to the actual conditions of the development of the society.

The purpose of the military reform is to reorganize the military political system of the state into an efficient and flexible system of assurance of military security, correlated to the norms of the state of right, to the modern framework and to the geopolitical, political, social and economic perspectives of the state.

Hence, it is necessary to mention that the reform became an imperative of the time.

The main directions of the military reform are:

1. Scientific assurance of the national defense.
2. Development and improvement of the law basis.
3. Improvement of the leading system in the sphere of defense.
4. Reform of the armed forces.
5. Improvement of the mobilization system.
6. Economic-financial assurance.
7. Development of the international collaboration.

The priorities of the reform are:

- Improvement of the military leading system of the state and the creation of a legislative- normative basis in accordance with the present relations;
- Quantitative and qualitative assurance of the structure, training and assurance of the officers;
- Raising of the quantitative level of the technical assurance of the troops;
- Raising of the efficiency and of the operative and fighting training quality;
- Creation of a rational systems of training of the effective;
- Education of soldiers, consolidation of the law system and of the military discipline;
- Assurance of social and juridical protection of the military men, including the soldiers which have been released of the military service;
- Informational assurance of the military effective and forming a defense conciseness of the population;
- Development of the international military collaboration;
- Optimization of the structure and of the number of the effective.

***The planed transformations are necessary now. The faster they will be achieved the cheaper they will cost, and the results will lead to a stabile growth of the military body efficiency. The consequent achievement of the military reform is planed for three rounds during 2000 – 2012.***

In this context the president of the country – The Supreme Commander of the Armed Forces declared in the first stage of the military reform the decrease of the effective of the Armed Forces by 3000 soldiers, 1300 of them are from the National Army.

Such a reduction will allow the decrease of expenditures for the support of the effective and will contribute to the increase of the level of technical and military fighting training of the National Army, which constitutes the basic structure of the Armed Forces.

The military reform that began with an essential reduction of the effective of the armed forces in general and of the National Army in particular will favour the world wide extinction and the increase of the trust towards the military policy, promoted by the Republic of Moldova and it also is convincing proof that Moldova will continue to observe the principle of solving the transnistrean conflict exclusively peacefully and it will have a positive impact over the solving of the problems in the localities from eastern zone of the Republic of Moldova.

Following the above, taking into consideration the agreements and the common declaration from July 16,1999 signed in Kiev, regarding the creation of the common defensive space, Moldova proposed to the transnistrean side to sign an agreement regarding the unification of the armed forces and of the military systems of the eastern region administration with the creation of a common military commandment. In case when this initiative will be accepted, the necessity to modify and to complete the military reform will be obvious if we take into consideration the vector that determines the construction of the Armed Forces and of the defensive system of the country.

At the same time the Ministry of Defense collaborates with the international bodies OSCE, UNO, NATO and CIS in the problems concerning the prevention and the solving of the crisis situations. Practical bringing into being of these collaborations concretized when Moldova adhered to the Protocol regarding the interdiction or limitation of the mine using, the concluding and the dispatch of the lists of the soldiers for the system “UNO troops in abeyance”, the participation with the military observers of the national army to the OSCE missions (Georgia and Macedonia), a fact that constitutes a practical contribution to the officializing process of the stability in the region.

The development of the international military collaboration contributes to the avoiding of the isolation of our country from the processes in the sphere of defense and it consolidates the national security.

Tackling the paramount direction of the military reform in the domain of the development of the international military collaboration, I would like to mention that along with the bilateral and multilateral military collaboration the National Army initiated projects and programs which are included in the activities carried in the frame of the Stability Pact in the military sphere, which have direct connection with the activity of the working table no. III.

A practical example of this activity is the signing of the memorandum between the Ministry of Defense of the Republic of Moldova and the Maintenance and Supply Organization for of NATO (NAMSO) regarding the cooperation in the sphere of logistic support which foresees the necessary assurance for the destruction of the anti personal mines, of the munitions with expired term and the neutralization of the oxidant “Melanj” and “Somin”.

The annual change of information in the frame of assumed engagements concerning the FACE treaty and the Document of Vienna is going on.

These projects and activities permit the Republic of Moldova to fulfill the assumed obligations on international plan and contribute to the strengthening of the credibility between the states, assuring the environmental protection and strengthening of the stability in the region.

Concluding the idea concerning the military reform I would like to stress the fact that being a success in the process of the military reform development and implementation the national army came across some difficulties, which followed the general social-economic situation of the country. The economic crisis in the state puts its fingerprint on the military reform process as well and makes difficult its full implementation in established term, the main reason being the insufficiency of economical and financial resources.

Referring to the problem of small arms control I can state the fact that in the National Army it can be solved. These considerations are based on the existence and application of military regulations which provide the way of evidence, control and use of small arms according to the application of the Moldovan laws in the given domain.

As to the notion small arms there is no a definite clear international definition yet already established. But the documents in the frame of UNO, OSCE use the definition small firearms. Small arms are those destined to group usage in AF and in the security forces by some persons which form the fire team. The firearms are individual guns used in AF and in the security forces.

In the National Army the used small arms and the firearms are of soviet production and hence they are numbered and controlled according to the marking system of the production factories of the ex- USSR. Unmarked arms are not used which permits their surveillance in the export, import operation, in case of lost or purloining which fact is in full correspondence with the international documents.

As a remark we can mention that the international documents in the domain of small arms control are only appearing and are not yet finalized. Thus, the Ministry of Defense has not directly implied in their implementation.

I consider it favorable that the cooperation in the domain of small arms control in the frame of the Stability Pact in south-eastern Europe to be deepened and extended.

It is necessary to state the fact the Republic of Moldova supports the common cooperation of the Stability Pact in south-eastern Europe partners and namely in the frame of the working table No. III, which is, preoccupied by the security problems.

Especially there should favor the participation of the militaries in the Security and Defense subdivisions concerning the following domains:

- Control and non-proliferation of armaments.
  - notifying and observation of military activities;
  - restrictions in heavy arms placement;
  - notifying concerning the abolishment of special operational forces;
  - control and inspection regimes, through the RECVIAC Center in Zagreb of the Stability Pact, formed of 18 participant countries;
- Support of regional action concerning the mines:
  - information exchange in the domain of actions concerning the mines between the affected region countries and other participants of the Stability Pact;
  - participation of the Moldovan sappers at the human mine clearing;
- Small arms of small bore:
  - deepening and extinction of cooperation in the domain of small arms control in the frame of Stability Pact in south-eastern Europe;
  - cooperation of the regional state concerning the fighting against the excessive and uncontrolled circulation of the small arms and arms of small bore in the region;
- Measures of trust and security growing;
- Military contacts;
- Initiation of the program for readjustment of military stuff dismissed from the Armed Forces ranks.

The European Union decided to admit the Republic of Moldova in the Stability Pact on the condition that Moldova on one side would not treat the transnistrean problem during the discussion in the frame of this regional arrangement and on the other side would no insist upon a new agreement with the European Union.

At the same time I would like to mention that speaking about the Republic of Moldova we can not but tackle at least tangential the transnistrean zone which is component part of the state.

By this we don't break the condition put by the European Union before Moldova when it was admitted in the Stability Pact, as we do not solicit the settling of the transnistrean problem in the frame of the pact.

More than this, the events that have taken place in the transnistrean region have a direct tangency with the problems tackled in the frame of this regional arrangement as: democracy and human rights, the problem of illegal production and export, excessive and uncontrolled circulation of arms inclusively the small arms and the ones with small bore.

I think that the discussion and the cooperation in the frame of the working table No. III of the Stability Pact concerning the tackled problems will contribute to a truthful information of the participants and to the adequate politics and decisions of the countries from the region.

Thank you for your attention!

## **BORDER CONTROL FOR ASSURING NATIONAL SECURITY**

Alexandru GRECU, Chief of the Main Staff, border guard troops

Dear audience,

Guaranteeing a strong national security, including at the state borders, is the important aspect of the vital activity of any country, it is the condition of its sovereign existence.

The development of contemporary international situation confirms the presence of a spectrum of danger, which destructively influences the situation from the Republic of Moldova, and in certain circumstances can transform into potential threats for the national security.

The problems of the present state of defense of Moldova, its citizen and its society, as well as the pursuit of its interests at the state borders is in continuous attention of the Moldovan leadership, and primarily of the president Vladimir Voronin.

The analysis of the situation created at the state border and in trans-border districts confirms the trend of increasing danger for terrorist manifestations, intensification of the activities of organized crime specialized in illegal migration.

The main pressure on behalf of illegal migration goes to the border guard services, a characteristic fact for any country including ours.

Taking these into consideration, the Department of Border-guard troops accomplishes organizational and practical measures in order to stop the flood of illegal migrators that come to Moldova with the purpose to transit its territory on their way to Western Europe.

According to the CIS terminology, illegal migrators are citizen of third party countries and persons without citizenship, who broke the legislation of entering, exiting, transiting or stationing in CIS Countries, as well as the CIS citizen who have broken the rules of stationing in a country from the Community established by its national legislation.

Together with the boost of illegal migration, the organized crime benefits from huge profits acquired from inspection of passing channels of illegal migrators. The process of illegal migrations started to acquire a criminal character and in that illegal activity of organization and carrying out of illegal passing of migrators across the frontier a larger number of criminal elements started to involve.

Rather serious according to our opinion is the problem of human trade, whose main activity is exporting women from Moldova in order to force them to practice prostitution.



I would like to mention that lately a characteristic particularity has become the fact that, if before we considered illegal migration the sole processes of clandestine passing of the state borders by the citizen from far away countries avoiding the checkpoints, now there is more and more tentative to cross the border illegally at the checkpoints and sometimes using false identity.

The creation of computerized network, the use of modern highly efficient machinery for the verification of documents at the checkpoints will contribute essentially to the extension of the possibilities of the border-guard troops to depict fake documents, which are very similar to authentic.

In my opinion, today's conference will make an additional step in deepening the collaboration among the structures and sub-units of other institutions that activate in this field, and deepening the general collaboration between Moldova and other countries and international organizations. In what concerns the international organizations, I believe that the dominance of their activity should be first of all providing technical, financial and expert advice assistance. Only through common efforts we can expect some results.

Thank you for your attention.

## **RELATIONS BETWEEN THE STATE AND THE NATIONAL MINORITIES AND DIASPORA**

*Tatiana MLECICO, General Director, Department for Interethnic Relations*

The end of the XX century is marked by the actualization of the national problem. Unlike the previous period along with the relations between the nations the relation of ethnic minorities in a state became important. Even in the European countries with strong democratic traditions the importance of the ethnic factor increased in the international policy and in the relations between the states, but the relations between the state power and the national minorities are developing on a large scale from productive cooperation to confrontation which in some cases has an armed character. Another phenomenon of the century is the activation of migration between the countries. The increase of the number of foreign Diaspora in a series of country became an important factor of their economic, national and cultural life. These new realities need the elaboration of new forms and methods of interaction between the state and the national minority inside the country and with its Diaspora abroad. By virtue of certain historical, ethnic, cultural and demographic particularities, the solving of this matters in the Balcanic region, Moldova is part of is a very special problem.

On concluding the Stability Pact for the south-eastern Europe (June 10, 1999, Koln), the signing states and the international organizations came to the conclusion that the main threat for the international security, democracy, human rights and economic welfare is not the large scale war between the states, but the internal regional conflicts between the ethnic groups.

The problem in avoiding this phenomena is the confirmation of polyethnic and multicultural society as a common social value. The solving of this problem in Balcanic region in the whole and in Moldova in particular id difficult due to the following reasons:

- the south-eastern Europe is a zone of ethnic, linguistic and confession diversity. It is placed on the border of Christian (orthodox and catholic) and Islamic world;
- In each country of the south-eastern Europe there are many national minorities (with the exception of Albania);
- Most numerous national minorities form ethnic parts with their own statality;
- Relations between ethnic groups are complicated because of:

a) attempts to create national states in polyethnic countries, applying the mechanisms of formal democracy with the purpose of legislative limitation of right and social marginalizing of national minorities;

b) some states – ethnic motherlands of the national minority, social organizations and political parties use the ethnic pretext as an argument in the political struggle and as ground to interfere into the internal affairs of the state.

In the 90s of the XX century the disintegration of a series of states, the change of the political system and the economic model as well as the economical crisis in the south-eastern Europe provoked the appearance of a huge wave of migration. The existing before Diaspora were completed with newcomers. The processes of ethnic consolidation lead to the tendency of creating polyethnic states.

The mere fact that there were no official territorial pretensions to the neighboring countries of the region does not prove the absence of these pretensions. There exists a tacit and sometimes quite open support of such pretensions from the part of state structures. This is manifested:

- in the attempts to justify scientifically (historically, linguistically , ethnic and demographic etc.) the territorial pretensions;
- in the accomplishment in some countries of state programs with ethnic cultural reorientation to these countries of related ethnic population of the neighboring countries;

Thus, the conclusion of the Stability Pact for the south-eastern Europe in proper time, has to play an important role in preventing the interethnic conflicts in the region.

The Republic of Moldova is a country with secular traditions of friendly, good neighboring relations of different ethnic minorities, it accumulated the experience of interethnic consent and potential tolerance.

The Moldovans constitute 64,5 % of the population. Among the ethnic groups the most numerous are Ukrainians –13,8%, the Russians – 13 %, the Gagauz – 3,5%, the Bulgarians – 2%, the Jews – 1,5 %. The specific weight of the national minorities in the composition of the country population according to the population pole of 1989 makes 34,5%.

The changes that took place in the country conditioned the necessity to acknowledge the new state and role both for Moldovans, making the majority of the population and for the representatives of other nationalities having received the status of national minority.

The high interest for the problems of national identity of the Moldovean majority gave birth to parallel processes in the midst of the national minorities. These processes tend out to be long lasting and not simple.

In the Republic there were accomplished certain activities for the multilateral harmonious development of the national minorities and for the legislative assurance of their rights and liberties.

The policy of Moldova as a sovereign and independent state is oriented to create conditions for the real equality of all nations. An important component part of the national policy of Moldova is the legislative assurance of law for representatives of national minorities. The Moldovean state proclaimed and now accomplishes the democratic principles and its national policy reflected in a set of normative and legislative acts, more or less touching these problems.

The Constitution of the country obliges the state to recognize and guarantee the citizens rights to keep, to develop and to express the ethnic, cultural, linguistic and religious specific. All the citizens are equal before the law and the power, regardless of race, nationality, ethnic group, language and religion. Keeping and developing the native language is guaranteed by the “Law concerning the functioning of the languages on the territory of the Republic of Moldova “ (1989).

The Law concerning the education gives the citizens of the country the right to choose the language of education, which permits to create conditions for the representatives of national minorities to get education in their native language.

The Law concerning the social societies (1997) guarantees the right to unite according ethnic, national and cultural principles.

In 1991 –1993 there were adopted a series of Decrees of the President and of Orders of the Government of the Republic of Moldova concerning the development of national cultures of Ukrainians, Russians, Jews, and Bulgarians. In 2001 this list was completed with the Government Order “ About the measures to support the Gypsies in the Republic of Moldova.”

On July 19, 2001 The Parliament of the Republic of Moldova adopted the organic Law concerning the rights of the persons belonging to national minorities and legislative status of their organizations.”

Our Republic has its own experiment in solving the interethnic problems. The international community appreciated as positive the creation of the autonomous territorial unity of Gagauzia. At last there were taken into consideration the interests of the national minorities in creating the district of Taraclia where the Bulgarians of Moldova live compactly.

The structure of the state power at all levels corresponds with the problems of the polyethnic states.

We have a system of state institutions dealing with the rights defense and support of the national minorities and with the interethnic relations.

An important ring in this system is the Department of Interethnic Relations, a permanently acting domain organ in the central public administration. Being created in 1991 the Department has to accomplish the state policy in the domain of interethnic relations, of respecting the constitutional rights of the citizens to keep and express the ethnic, cultural, linguistic entity and the functioning of languages.

In the republic there are schools with training in the Ukrainian, Bulgarian, Polish languages, Hebrew is also studied. The system of schools and institutions studying in Russian is kept and is being developed. There is being created a network of schools with training in the Gagauz language. We prepare the teachers for training children at kindergartens and schools in the national minorities languages.

In the country there became traditional to spend the Days of Slave written language and culture, decades of Ukrainian, Russian, Bulgarian, Belarus cultures, national and cultural projects and actions are numerous.

A special role in keeping the national cultural diversity of Moldova belongs to more than 150 social societies representing 19 national minorities. These organizations acting and regional level contribute to keeping and developing their cultures, languages, traditions, customs. The House of Nationalities is the cultural and informational center of social, ethnic and cultural organizations of the country, having been working of the Department of interethnic relations for five years.

One of the mechanisms to assure the rights of the national minorities is the Coordinating council acting in the frame of the Department. Leaders of the republican social organizations are members of the Council. Though the decisions of this forum are of advisory character the council form the opinion and the needs of the ethnic minorities and effects the function of an intermediary between the representatives of national minorities and organs taking decisions in the sphere of their interests.

Since Moldova became independent it joined the basic international pacts in the sphere of human rights, including the General Declaration of Human Rights. The ratification of the conference in the frame of the European Council concerning the rights of the national minorities on October 22, 1996 was an event of major importance for our country.

Here are some of the results in the establishment and development of our in the state policy of our country concerning the interethnic relations.

Along with the achievements we can mention some problems which have to be solved in order to strengthen the civil consent, widening the possibilities to develop the national culture of the ethnic groups of Moldova, thus, contributing to the creation of objective condition for social integration. Integration processes suppose the national minorities to know the state language and to accustom them to the cultural values of the Moldovean people; support of the minorities by the moldoveans, keeping the cultural and linguistic diversity, intercultural education of the population and formation of the conscience of a common cultural and historical inheritance.

The Moldovan Diaspora is a large quantity investigated not very much. The statistical data are incomplete and they refer only to the **historical Diaspora**. According to the pole of 1989 in the limits of USSR, mainly in Ukraine, Russia and Kazakhstan there lived 557603 moldoveans. The investigators considered this figure incomplete. Besides, it does not include other ethnic minorities originated in Moldova. And finally the given data are obsolete due to the **mass migration in the 90s** „especially to Israel (46 thsnd.), Russia and Ukraine (more than 40 thsnd.) and other countries. Being citizens of other states the former migrants keep certain links with Moldova.

More larger is the **labor migration**. According to competent data by the beginning of 2000 outside the republic (in CIS countries, in Baltic countries, in Czech Republic, Bulgaria, Germany, Italy, Greece, Turkey, France, Spain, Portugal) live more than **600 thsnd. citizens** of Moldova. In 2001 outside Moldova there lived 27.000 people of Gagauzia while its population is 156.000.

The lack of exact data concerning the quantity of labor migration, a geographical location of the migrants, their juridical status in the other country (citizenship), their employment and professional situation (business, spheres of wage labor, scientific workers, unemployed) and the few number of complains concerning the infringement of labor rights of the migrants received by the state institutions of Moldova or published in press can be explained, to our opinion, by the fact that the migration has an illegal character.

There is no reason to ignore the existence of this numerous Diaspora and to consider the stay of our co-citizens abroad as a temporary phenomenon. The experience of Turkish “Gastarbiters” in FRG, of labor migrants from the southern Europe, Caribbean basin, Northern Africa in 60s - 80s permit us to suppose that the labor migration is not a phenomenon only for the transition period. The appearance of new Moldovean Diaspora nowadays needs action – offering our compatriots legislative, informational and other assistance. We also have to satisfy their cultural needs.

The given analysis permit to our opinion to state the necessity:

- a) to develop an interethnic dialogue and interaction of the state and of national minorities in Moldova;
- b) to search for methods and forms of the state working with Moldovan Diaspora.

The work with the Moldovan Diaspora is being done in Moldova. The problem of foreign compatriots support and of interaction organization with them was formulated in the Decree of the President No1638 dtd. August 30, 2000. IN order to fulfill the Decree dtd. December 29, 2000 the Government of Moldova adopted the decision concerning “The measures for supporting persons born in Moldova and leaving abroad”. The governing body of the country elaborated two state programs aimed to contribute to the political, economic and spiritual strengthening of the potential of the country, to enhancing its international authority: “Moldova in the world” and “Diaspora of Moldova”.

There are examined the questions of adopting the Law concerning the double citizenship, concerning the development of bilateral and multilateral interstate relations of Moldova taking into account the presence of Diaspora in other states, measures are taken to establish the relationship of cooperation with the Moldovans living abroad. At present in the countries of CIS and Baltic states there act 26 Moldovans national, cultural organizations, 13 in Ukraine.

The Department of interethnic relations of Moldova signed interdepartmental agreements with relevant institutions of Russia, Ukraine, Belarus providing the protection of the interests of the Moldovans in the given countries and representatives of Russian, Ukrainian and Belarus Diaspora in Moldova. Jointly with the Department of national minorities and migration of Lithuania we elaborated and delivered the project of the agreement concerning the cooperation following the Moldovean Diaspora in this country. The Department is preparing to hold the congress of foreign compatriots.

In the context of the working group” **Human rights and national minorities**”, the project “Linc Diversiti” elaborated and the aegis of the “ European Council” deserves a paramount support. In Moldova it should be desirable to elaborate and to propagate the **project of the Conception of the polyethnic, multicultural, bilingual society**.

But the joining of our country to this project needs a preliminary study of the legislative, social and cultural situation of the national minorities in Moldova.

1. In the chapter “**non-discrimination**” the given project has to our opinion to include:

- a) ethnic, social investigations;
- b) organization of conferences, roundtables on the questions concerning the presence of discriminating articles in the present legislation;
- c) elaboration of recommendations concerning the improvement of the legislation and the practice of the application of law;

2. In the chapter “ **Implementation of the existing standards**” it is advisable to support and propagate the idea of Moldova joining some international acts concerning the national and linguistic rights of the minorities, monitoring of the process of harmonization of the national legislation with them;

3. In the chapter “**Bilateral agreements on cooperation**” – support of Moldova’s cooperation with the south- eastern European states, were moldovean lives.

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Dear participants at the conference! Compatibility of numerous ethnic groups living on the territory of our country is to a great extent determined by the influence of three world cultures: Roman, Slave and Turk, which were present here in the course of many years.

## JUDICIARY REFORM IN THE REPUBLIC OF MOLDOVA

Lidia LOZOVANU, Ministry of Justice

Admission of the Republic of Moldova as a full right state member in the Stability Pact in south-eastern Europe on June 28, 2001, was an important event for our country as we adhered to an organism which has already proved its viability, becoming an important institution for democracy promotion, economic growth and the security in south-eastern Europe. Having adhered to this international engagement, we have subscribed to a series of engagements having the purpose of coherent strategy promotion of regional level, the main objectives being assurance of peace, democracy, observance of human rights and economic prosperity.

The active implication of our country in the initiatives and projects of the pact is expressed by creation of institutes for participating to its activities especially to the three working tables which include a line of subjects sensible for the region: democratization and human rights (working table I), economic reconstruction, development and cooperation (working table II), problems of security (Working table III). Further on I will try to emphasize some aspects tackled in the frame of the **working table III activities, especially in the subdivision “Justice and Internal Affairs” and, tangentially in the frame of working table I, problems concerning the human rights.**

It is already well-known that at present in all the Central European countries there appeared the tendency to unify both the legal and the institutional systems with the aim of consolidating a common law space, which should implicate an intense, constructive cooperation between the judiciary organs of our country at the regional and global level. This objective could be achieved only in case of cooperation efficiency and legal harmonization in the domain by all the states and also the fulfillment of new programs connected with this problem.

On the global plan the tendency of increasing the guaranties of human rights observance determined the Republic of Moldova to follow the way of democratization, of establishment of new viable mechanisms of human rights protection, of the affirmation of human being as a supreme value. Taking into consideration the new realities the legal frame began to be modified mentioning in this sense the huge contribution of the occidental democracies to the harmonization of the legislation of the Republic of Moldova to the international standards.

In the course of the 10 years of independence great social transformations took place, positive and negative. Regretfully, violent conflicts, the fraudulent concentration of public assets in the hands of some clandestine proprietors, the excessive pauperization of the population could not be avoided. In spite of the liberties offered to the population the transition of our country to a prosperous democracy remains incomplete. Thus, the proclamation of the sovereignty and independence of the Republic of Moldova generated a profound economic, social and political reformation of all the state structures, conditioning evidently the necessity of a juridical and law reform. The final scope of these reforms was and remains the assurance of a legal and institutional frame adequate to the exigencies of a state of law.



It should be mentioned that the judiciary and law reform is the main component part of the transition process in a democratic society as it concerns all the domains of the social life, this reform is no doubt necessary for the attraction of investments, fight with corruption and organized crime, for the efficient protection of the human rights. The existence of a legal system viable and efficient presents for our country an important condition in the frame of a state of law consolidation, in the aspect of the global experience in domain.

Thus the formation and consolidation of the Republic of Moldova as an independent, democratic and civilized state made imperative the practical fulfillment of the principle of power separation in the state as a primordial condition of building and functioning of a state of law in the frame of the great family of the European states.

The principle of power separation was accomplished on a legal institutional plan in the frame of the judiciary and law reform, which took place in 1996 as a result of the adoption by the Parliament of the Conception of judiciary and law reform in the Republic of Moldova, starting with the idea that in the transition period from the totalitarian system and centralized economy to a democratic state and free market economy, the formation of new juridical mechanisms are absolutely necessary: an independent judicial authority, a free press and the mechanism of the human rights protection.

In essence, for our state the judicial and law reform constituted one of the most important stages of transition from the directives administration system to a system of the democratic administration based on law. The declared conception determined the paramount directions of the judiciary institutions rebuilding and the establishment of a circle of additional problems for them. Solving these problems the establishment of judiciary institutions as a separate branch of the state power became possible. The conception provided two aspects of the reforms: the creation of the legal adequate frame and the institutional reform.

The main step in the creation of the legal frame was the adoption of the **Constitution, which contains a separate chapter, dedicated to the judiciary authorities, followed by the adoption of a series of laws very important for a state of law, as: the Law of the Constitutional Court, the Law concerning the court organization, the Law concerning the statute of the judge, the Law concerning the Superior Council of the Magistrate, the Law concerning the disciplinary board and the disciplinary responsibility of the judges etc.**

Thus, through the legislative basis, it was acknowledged that the justice constitutes the exclusive attribution of the state and no other authority can perform the justice (art. 114 of the Constitution of the Republic of Moldova).

Along with the declared principles there were also mentioned the fundamental **constitutional principles: carrying out the justice in the name of law (art. 114 of the Constitution), the right to defense (art.26), presumption of guiltiness (art. 21), equality of the citizens before the law and the public authorities (art.16), interdiction to establish extraordinary instances (art.115), independence and irremovability of the magistrates and their submission only to the law (art. 116), guarantee to bring actions (art. 119) etc.**

**The Constitutional Court** was formed as the unique authority of constitutional jurisdiction in the Republic of Moldova, thus the constitutional control at the state level being implemented.

The judiciary reform caused essential changes concerning the statute, the role and functions of the judiciary instances. At present, on the basis of the Law concerning the judiciary organization, the fund judiciary system of the Republic of Moldova was separated in four parts:

- **sector judges;**
- **tribunals**
- **Court of Appeal;**
- **Supreme Court of Justice.**

In the frame of the judiciary system rebuilding the judiciary competence was introduced in all spheres of social relation regulations. The establishment of the specialized instances led to the specialization of the persons that execute the justice, as the development of juridical institutions does not permit to keep in vision all the domains of juridical relations (in this way there have been constituted a series of specialized instances: economic court, military court.) Beginning with August 18, 2000 **the Law concerning the administrative contentious** came into effect. It was adopted in order to that there should be respected the provisions of article 53 of the Constitution, according to which each person is considered to be prejudiced in his view, but recognized by the law, by a public authority, through an administrative act or through the an unsettled appeal in legal terms, can address to the instance of administrative contentious in order to obtain the acknowledgement of pretended right, the annulment of the act and the reparation of the caused prejudice.

Thus the main idea was that the judiciary organization to be axed preponderantly on personal rights protection, assuring the principle of free access to justice and the right efficient satisfaction from the part of competent judiciary instances.

At the same time there was essentially changed the statute of the judge, based on the principle of independence, impartiality and irremovability.

According to a special law there was created the Superior Council of Magistrate, a body which exerts the judicial autoadministration and it is the guarantee of the independent judicial authority.

A special place in the concept of the reform of the judiciary and law system is taken by **the Prosecution**. The role and the functions of the Prosecution was changed so that this institution should correspond to the exigencies of the state of law and of European standards and constituted one of the engagements of the Republic of Moldova at the moment of adhering to the European Council as a full right member. So having studied the jurisprudence of the Court and of the European Committee of Human Rights, the Recommendations of the Committee of the Ministers of the European Council No.R (2000) 19 concerning the role of the Public Ministry in the system of penal justice, of the occidental states' experience and having consulted the specialists experts of international level, the elaboration of the law project is coming to an end and it will establish the role and the place of these organ in the system of public authorities. It should be mentioned that for the moment being the function of

general supervision earlier carried out by the Prosecution, is not any longer one of its main attributions – according to the changes operated in the summer of 2000 in the Constitution of the Republic of Moldova.

We also emphasize another institution of justice – **the Bar**. At present in the Republic of Moldova a new bar law is acting. Unfortunately, a series of provisions of this law have been declared unconstitutional and there appeared the necessity to elaborate a new project of the law concerning the bar in the sense of specifying its statute as an institute of public law which would enjoy autonomy in its activity.

All these changes of the national normative frame are connected to the relevant changes of the legal frame. Here we mention that the establishment of the contradictories principle in the process of trial imposes equal roles of the prosecutor and of the lawyer, following the principle of “arms equality”.

There have also been elaborated projects of the Execution Code and of the Law concerning the judiciary executors which provide the regulation of the legal activity and the structural organization of this institution in the process of execution of the judiciary decisions.

Also, after a study of relevant experience of the European countries we intend to change the statute of the clerks, which in present are looked upon as technical staff. In this sense there will be elaborated a draft law according to which the clerks will obtain the statute of judge “assistant” with more competencies.

The stage of harmonizing the legal and institutional frame in the frame of judiciary and law reform is very complex and it is accomplished in strict conformity with the European standards, which evidently assures compatibility of the legislation of the Republic of Moldova with the international instruments and with the legislation practice at European level.

A special section in the context of the judiciary reform is the revision of the system of the **penal legislation and of the penal procedure**. The elaboration of new norms was inevitably conditioned by the appearance of new grave phenomena which present a real threat for the development of a state of law.

In this context I would like to stress the negative phenomenon of **illegal migration** which is continuously ascending and for our country is an indispensable component of organized crime. This phenomenon is a serious concern of the competent organs not only in our country, but also in the majority of the European countries. Thus I should like to mention that during the last years due to the transparency of frontiers, the simplified regime of entering and leaving the country, the Republic of Moldova became a so called corridor to the West. This is a easy chance for illegal migration of citizens from Asian and African countries through our country. Another acute problem for our country is the traffic of human beings and the traffic of human organs and tissues, which is practiced by the criminal organizations, our country being the “country donator”.

These problems must be solved and in order to develop a common coherent activity of counteracting these phenomena I should consider it necessary to continue the fulfillment of a concrete measures program to assure the consequent adjustment of the legislation to the European norms, instruction of the staff, creation of a special fund for technical and material support of this activity.

The promotion of the Republic of Moldova on international plan, the adhering to numerous international instruments conditioned inevitably the assumption of new engagements and acceptance of international already established principles, with their ulterior introduction in our legislation. Thus, lately there have been elaborated projects of the most important codes which have to be urgently examined by the Parliament, in order to assure a continuing judiciary and law reform.

In this context we have to state that by the new projects of codes an essential reform of the existing procedures is provided and their adoption will permit the implementation of new mechanisms and practices of high performance following the European experience in domain.

The consequent harmonization of the national legislation constitutes a priority for the Republic of Moldova and of course is considered an important step in the condition of our country's aspiration to the European integration. Taking into account the relevant experience of the countries members of the European Union and the international instruments, projects of the new codes have been elaborated in conformity with the European standards. In this respect the main modifications are made at the stage of penal investigation, instituting by the new **Code of penal Procedure** a new judicial subject – the instruction judge and the penal investigation will be carried out by specialized structures – investigation officers under the leadership of the prosecution organs. An essential moment in the new Code of penal procedure is the chapter concerning the international judiciary assistance in concerning the penalty. The express presence of this chapter will facilitate the procedures of international cooperation, which in present develops only on the basis of some agreements signed at regional and international level without any specification of national law level.

Another important aspect of harmonizing the penal legislation is the new **Penal Code**. The elaboration of the new project involved also the study of the European legislation, following the purpose of establishing the categories of the infringements and punishments reported to the exigencies of the states with advanced experience from the European space. This objective is also conditioned by the fact that the Republic of Moldova aims to elaborate a legislation which should establish common penal infringements in the context of international instruments it is part of. In the new project it is evident the transfrontier aspect of the organized criminality, which lately became a problem of concern especially for our state which is in the stage of transition. Thus, there have been emphasized new components of infringements specific for new conditions as money washing, traffic of human beings, especially of children. A radically new element is the express establishment of the penal responsibility of juridical persons.

**The Projects of the Penal Code and of the Penal Procedure Code** were submitted to a complex expertise in the frame of the European council, later being finalized in conformity with the expressed suggestions and objections. The adoption of these codes will constitute a decisive step of the Republic of Moldova in the frame of the process of integration into the European Union and in creating of a space of common law.

Though the judiciary and law reform in the Republic of Moldova has already been promoted in the course of several years, we consider it necessary to underline some key problems which our state has to confront with as insufficient financing of the judiciary organs (which evidently affects the impartiality of the judges), **judiciary deontology, assurance of an efficient fulfillment of the principle of contradictories and equality of the parties being in process, informational insufficiency.**

More than this, it is imperative **to revise the judiciary and law reform concept** as some compartments of the concept are already overfulfilled, others have to be changed following the accumulated experience. In these contexts it is necessary to determine the perspectives and strategies for future.

Concomitantly it has to be mentioned that at present a new reform of the judiciary has been initiated. Thus it is planned to reform the system of the existent judiciary instances in order to improve them by excluding one ring, as the present structure is very complex and in some cases it is even an impediment in accomplishing the constitutional right of the person concerning his access to justice. The introduction in 1996 of a new institution – Appeal, created real possibilities for physical and juridical persons to defend their legal interests.

But the formation **of four steps of instances with 5 degrees of jurisdiction** with double ordinary appeal, with extraordinary means of attack, proved to be clumsy and inefficient. In reality three rings of the judiciary hierarchy (**tribunals, Court of Appeal, Supreme Court of Justice**) are appeal instances. Such a situation is opposed to the acknowledged principle of the judicial right: the examination in first instance, appeal examination of the law problems and in fact the appeal examination only of the law problems. During the last years this subject provoked many discussions: some propose the change of the tribunal competence transforming it into the basic ring, placing a tribunal in each judets and forming three courts of appeal; others propose to abolish the tribunals and to institute more courts of appeal.

It is certain that the further improvement of the judiciary system will have a positive impact upon the society as a result the fund and appeal instances will examine more operatively the cases, will increase the access of the citizens to the Supreme Court of Justice.

We also propose to establish anew mechanism of designation, promotion, transfer, detaching (a new procedure which is necessary to be specified and which has not been regulated so far) of the judges by the **Parliament and not by the President of the Country.**

It is planned **the Superior Council of Magistrate to be formed of magistrates elected secretly, proportional to the number of judges and prosecutors**, so the titled professors. Being so, we propose for future in the frame of a special law the regulation of a *mixed* Superior Council of Magistrate, which will be formed proportionally from magistrates from among the prosecutors and the judges as well as from among the title professors. Following these considerations the rigorous changes are imposed in case of the competence of the Superior Council of Magistrate.

A special place in the frame of the projects is offered to the definition of the statute of **Prosecution**, which is supposed to differ from the existing one, the key elements of this change is the attribution of the statute of magistrate to the prosecutors and the establishment of the **authority of the Ministry of Justice**. The Prosecution being an organ to assure the accomplishment of justice in the state has to be subordinated to the executive power as a special organ in the system of executive power, in fact being placed at the intersection of the three powers in the state.

Another problem which has to be specified deals with the notion of “**administrative contentious**” which is not solved successfully in the Law concerning the administrative contentious. The notion “the administrative contentious” refers to the contest of the decisions of all public administration organs and of responsible persons from the whole administration, inclusively central and local, in the organs hierarchically superior from the public administration, in case of their absence or disagreement – to judiciary instances.

The question of **judiciary police** express provided in the Constitution of the Republic of Moldova and in the Law concerning the judiciary organization is not solved.

There are not adopted by the Parliament so far **the code projects: civil, of civil procedure, penal, of penal procedure, of contravention, of execution**. The absence of Civil Code, in which there are established according to new economic relations general provisions concerning the statute of the juridical person, types, conditions of formation, of activity, of economic agents liquidation, of the contracts establishing their relations, etc is inadmissible in a state oriented to the free market economy. There are not yet finally solved the questions concerning **the Bar and the Notary**. In case if these organs are included in the list of organs assuring the fulfillment of justice, it is necessary that these structures are functioning only under the State control (actually these functions are given to some structures which have the statute of a public association, the State being involved only in a very formal control of these activities).

It is necessary to find the solution for the **investigation departments**. It is known now, that there are not sufficient persons and structures to make a penal investigation, and the investigation usually is not very deep. According to the Concept of the judiciary and legal reform, it is going to be created an Investigation department. If such an organ is not instituted it is necessary to concentrate the investigation functions in the organs of prosecution and of internal affairs. Otherwise it would be a mistake to disperse the attributions to various authorities of the public, central administration in domain (such a provision was included in the new project of the Code of penal procedure), following the lack of experienced specialists and it also will complicate the accomplishment of international cooperation in the domain.

An important role in the process of reform belongs to **the informational system**, which is continuously improving and its further development has to be aimed to create systems integrated with the informational systems of all the specialized central organs of the state, creation of a centralized and unitary informational system in the justice. The acquisition of calculators will facilitate the constitution of such a system, which will be unitarily structured in the main directions: human resources, legislation, and judiciary practice, large-scale utilization of EM in the administration system etc.

Taking into account the fact that the Republic of Moldova is a young state in continuing ascendance the appearance of new conditions and factors which will impulse new changes aimed to assure the affirmation of our state in the international community is no doubt.

In this context the continuing activity of improving of the legal and of the institutional frame in order to assure their compatibility with the world standards is indispensable. We have to accept the idea that the democratic reforms in general and the judiciary reforms in particular have to be promoted in parallel with the economic reforms.

An essential condition for the existence of an independent judiciary state is the economic welfare of the country as the level of development of a country impregnates something specific to the measures undertaken by the Government in assuring the judiciary independence.

We have to mention that the scope of the judiciary and law reform to a great extent has been accomplished, but one have to eliminate the noticed deficiencies.

Taking into consideration the tendency of the Republic of Moldova to integrate into the European Union, the Stability Pact being in this sense a galvanizing element for this integration it is necessary for our country to continue the reform of the internal judiciary system, thus facilitating the implementation of the two initiatives SPAI and SPOC and the achievement of the objective of strengthening the capacity to fight against the organized crime in south-eastern Europe by promoting coordinated actions at regional level.

Being conscious that the judiciary cooperation between the states is one of the most efficient means to fully assure the social and individual security, the Republic of Moldova was and is always open for all international initiatives, which should contribute to the supremacy of the law.

Concluding these report it is necessary to emphasize some actions that should be carried out by our country, in order to make the judiciary reform efficient.

- Acceleration of adopting new projects and codes: penal, civil, penal and civil procedure, of contravention, of execution, etc. As, with no adopted codes, the reform is not complete;
- Rebalancing of the role of the Prosecution in the judiciary field, definition of the role and place of this institution (elaboration of relevant projects);
- Institution of the judiciary police, intensification of cooperation between the national implied institutions, creation of a judiciary police staff;

- Supply of the instances with the equipment necessary for the assurance of good working conditions, considering the possibility to enhance the salaries (an indispensable element in the process of the activities of corruption preventing);
- Assuring the balance between the defense and accusation (the principle of arms equality) and the efficient access to defense;
- Improvement of the present statute of the clerk (adoption of the legislation concerning the statute and the place of the clerk) in order to form a separate profession;
- Application of efficient measures for executing the decision of the instances, inclusively the improvement of the executing procedures and the role, the statute and the organization of the judiciary executors;
- Assurance for recruiting qualified persons for the functions of judge and prosecutor and for improving professional competencies of the judges and prosecutors by creating the National Institute of Magistrate which will provide initial formation (not existing now) and continuous training of the magistrates; formation of clerks and of the auxiliary staff;
- Initiation of a program of professional ethics formation of magistrates;
- Assurance of justice transparence so that the citizens should be confident in justice, by establishing a program of fight against corruption in the frame of judiciary system and putting into function of the Stability Pact initiative against corruption SPAI and of the program PACO of the European Council.

The implementation of these measures will favor a good perception and credibility of the Republic of Moldova at the level of the state members of the Stability Pact, constantly participating at its activities on political plan, at the experts meetings, of parliamentary dimension.

In conclusion, following the perspective of protection and promotion of the external policy interests of the Republic of Moldova, it is extremely important that our country should respect the assumed engagements, a fact that will confirm that the democratic institutions in our country are functional, and will implicitly recognize the Republic of Moldova as a democratic State, acting on the principle of the modern state with the rule of law.



## **THE LEGAL AND INSTITUTIONAL FRAMEWORK REGARDING THE ANTI-CORRUPTION INITIATIVE OF THE STABILITY PACT FOR SOUTH-EASTERN EUROPE**

Tudor OSOIANU, University of Criminology

The Anticorruption initiative (SPAI)<sup>5</sup> was launched within the Workshop no. 3 of the Stability Pact for South-Eastern Europe and provides a series of measures on national and regional scale, meant for the approach of this problem in all of its aspects. Paying a special importance to the problem regarding the measures against corruption and organized crime, the President of the Republic of Moldova, Mr. Vladimir Voronin, expressed the commitment of the Republic of Moldova to comply with and implement the provisions of the Initiative through a letter addressed to Mr. Bodo Hombach, Special Coordinator of the Stability Pact.

According to this document, the Government of the Republic of Moldova will adopt and implement the European and international standards in the field. In this sense, it must be remarked that Moldova is already signatory of the Penal Convention regarding corruption, adopted in Strasbourg (January 27, 1999) and signed by Moldova (June 24, 1999), as well as the Convention regarding the laundering, prosecution, arrest and forfeiture of the products of offence (Strasbourg, June 8, 1990, signed by Moldova on May 6, 1997).

At national level, the chapter “Engagements” of the SPAI stipulates the following opportunities:

- Incrimination of corruption and money laundering offences according to the European standards, as well as prosecution, enforcement of penalty for corruption offences within the elected bodies of public administration;
- Indemnification of the victims of corruption and efficient enforcement of the anticorruption legislation;
- Creation of special anticorruption units and provision of these units with a well-trained personnel and special means. The members of these units must be independent, autonomous and protected by the state in the exercise of their attributions, must possess efficient means in order to protect people who assist the authorities in the prosecution of corruption;
- Strengthening of investigation capacities of the penal justice institutions.

In the context of approached problems, of special interest is the Law of the Republic of Moldova regarding corruption and protectionism from June 27, 1996 no. 900-08, which could be considered (of course with some limitations) as a positive achievement in this field.

With the adoption of this Law within the Criminal Code of the Republic of Moldova and the Code regarding the administrative contraventions, the following legal norms were included:

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<sup>5</sup> Adopted in Sarajevo, 15 February 2000

In the Criminal Code article 189/4 „Non-compliance of the persons with responsible positions with the provisions of the Law regarding corruption and protectionism”;

a) In the Code regarding administrative contraventions article 174/18 “Non-compliance with the provisions of the law regarding corruption and protectionism”;

In the Criminal Code of the Republic of Moldova the term “corruption” is not used with the meaning of a specific infraction. The infractions included in the general notion of “corruption offence” do not form a distinctive group in the Criminal Code of the Republic of Moldova, but are included in official malfeasances (Chapter 8 from the Special Part of the Moldovan Criminal Code “infractions committed by persons with responsible positions”). Therefore, the penal normative criterion regarding the definition and enforcement of punishment for the corruption offences, according to the opinions of several specialists, is narrow, because it circumscribes to the phenomenon of corruption only the offences from the Chapter 8 of the Criminal Code of the Republic of Moldova<sup>6</sup>, the strict sense of this notion including those six infractions: acceptance of bribe (article 187), bribe intermediation (art. 187/1), bribe (article 188), traffic of influence (article 188/1) (receiving illegal payments by the public officials (article 189/3) and non-compliance of the person with responsible functions with the provisions of the Law regarding corruption and protectionism (article 189/4)).

Unfortunately, considering the peculiarity and the volume of this paper we cannot thoroughly evaluate all of the articles of the Criminal Code of the Republic of Moldova that provide responsibility for corruption offences.

For the counteraction of the organized crime and corruption in the Republic the stake was made on the creation of a specialized subdivision – The Department for Fighting against Organized Crime and Corruption, initially created through a Presidential Decree and subsequently recognized as unconstitutional by the Constitutional Court. The creation of departments is regulated by the law of the Republic of Moldova regarding the Government. According to article 22 of this law, ... specialized departments are established by the Parliament at the proposal of the Prime-Minister...”.

Because the establishment of such subdivision was not disposed by the Legislator, the Government approved the creation of the mentioned Department as a subdivision of the Ministry of Internal Affairs.

Probably due to these reasons the Department for Fighting against Organized Crime and Corruption (DFOCC), conceived and intended for the elucidation of the cases of corruption in the superior layers of the state power from the Republic of Moldova, has not achieved its goals. The results of the activity of this Department prove that the unsolved cases of corruption remained at the level prior to the creation of the DFOCC<sup>7</sup>.

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<sup>6</sup> Valeriu Cusnir, „Foresight and detection of corruption offences.” Summary of doctoral paper, Bucharest 1998, p.7

<sup>7</sup> Valeriu Pascaru, „Corruption in the Republic of Moldova – legal aspect. Mechanisms for prevision of the phenomenon” Corruption, ARC, Chisinau –2000, p. 87.

The activities of criminal prosecution, which constitute the base of the probation process, according to the legislation in effect, remain to be regulated by outdated legislative norms which do not correspond to the present day requirements and call for radical changes. Thus the accomplishment of the very goal of the criminal process is being delayed. The procedural and penal norms that stipulate the accomplishment of these actions provide a complex procedure - as a result the expected results are obtained with loss of time, forces and means. This is the grounds of the situation we are in: we have a low productivity and efficiency in the accomplishment of penal justice.<sup>8</sup>

A step forward in this view would be the establishment of a special procedure in the Code of Criminal Procedure of the Republic of Moldova, as well as in the draft of the Code of Criminal Procedure. This will stipulate the procedure of prosecution and charge of corruption offences. Romania's experience in this sense would be useful and positive for us.

According to the Law regarding the urgent procedure of prosecution and charge of some corruption offences (no. 83 from July 21, 1992),<sup>9</sup> infractions included in the corruption offences are detected and charged according to the procedure of prosecution and charge of the flagrant crimes, that is to say, in an operative and efficient manner and without any holdback. In the case when the infractions, which represent corruption offenses, are not flagrant, criminal prosecution is accomplished within maximum 10 days from the date of notification of the prosecuting tribunal (Article 2 of the mentioned law).<sup>10</sup>

The practice of counteraction and prevention of infractions, in the case of legalization of illegally acquired financial resources, demonstrates that at the base of identification of the authors, who are supposed as guilty in the accomplishment of these offenses, is the arrest of objects and documents, including stamps and forms. It is important that the arrested objects and documents be appended to the criminal case according to the procedure established by the legislation, this being a compulsory condition for the admissibility of the evidence (in this situation the elements of offence).

The study of jurisprudence indicates that this requirement is sometimes neglected in practice. For example: the prosecuting tribunal notes the arrest of the objects in documents, records, before taking criminal proceeding or writes down a transfer record of distinct nature.<sup>11</sup>

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<sup>8</sup> Tudor Osoianu, „Improvement of the regulation of procedures of criminal prosecution in the criminal procedure of the Republic of Moldova.”, Summary of doctoral paper in Law, Chisinau 2001, p.3.

<sup>9</sup> Published in Official Monitor no. 173 from July 22, 1992.

<sup>10</sup> See: Criminal Procedure Code, Atlas Lex., Bucharest 1997, p.224.

<sup>11</sup> See: Tudor Osoianu, „Optimization of procedural regulation of arresting objects and documents, their claim and legal search in the criminal procedural legislation of Moldova.”// Improvement of regulation for criminal prosecution in the criminal procedure of the Republic of Moldova, Chisinau 2000, p.38.

In such cases the advocate will prove in trial without special efforts, that the main evidences are administered in a non-compliance with the norms of criminal procedure (article 52, paragraph 3, Code of Criminal Procedures of the Republic of Moldova). As a result this often leads to abated prosecution.

Unfortunately, the procedure for requesting objects and documents is not stipulated in the Code for Criminal Procedure of the Republic of Moldova. These regulations are superficial because they do not provide the means for reception and remittance of objects or documents, only mentions are made upon their claim. Thus, according to article 104 of the draft of the Code for Criminal Procedure of Moldova, the advocate allowed in trial has the right to claim and to present the objects, documents and information necessary for rendering legal assistance. Welcome is the fact that the principle of divergence is affirmed through this norm in the pre-trial phases. However, the claim of the objects and documents by the prosecuting tribunal is not stipulated in the project of the Code for Criminal Procedure. Moreover it does not stipulate the obligation of the citizen to remit objects and documents that are important for the equitable solution of the criminal case, as stipulated for example in the Code for Criminal Procedure of Romania (article 97).<sup>12</sup>

For the unification of the procedures of claim and remittance of the objects and documents in the criminal case, the following distinct order is presented:

- 1) Sending of interpellation;
- 2) Presentation of the claimed object or document
- 3) Record of this fact, as well as the particular signs of the presented object (document) in a protocol.<sup>13</sup>

In order to protect the witnesses of the victim who participate in the identification of the suspect, a special procedure is proposed which would exclude the possibility of identification of the witness on behalf of the suspected or accused person.

Examining the lawful wiretapping and eavesdropping stipulated in articles 156/1 - 156/3 of the Criminal Procedure Code of the Republic of Moldova, it is recommended to regulate the visual surveillance in the same conditions, as stipulated for example in Poland's Legislation, in order to widen the possibility of administration of evidence, especially in the cases of organized crime and corruption offences.

On January 28, 1998 the Parliament passed the Law regarding the state protection of the victim, witnesses and other persons that provide assistance for the criminal process (no. 1458-13). Unfortunately this law is merely declaratory and is not acting in accordance with the means that would assure its efficient enforcement<sup>14</sup>. Even after some modifications and amendments of the Law no. 126-15, it remains inoperable

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<sup>12</sup> See: Ion Neagu „Treatise of criminal procedure”, Bucharest, PRO, 1997, p.287.

<sup>13</sup> Tudor Osoianu: „Improvement of regulation for criminal prosecution in the criminal procedure of the Republic of Moldova.” // Summary of doctoral paper in law. Chisinau 2001, p. 13.

<sup>14</sup> Tudor Osoianu: „Criminal Procedure.” General part (introductory course), Reclama, Chisinau, 2000, p.60.

because the related financial resources have not been allocated. In this context it is appropriate to foresee such budgetary expenditures.

During the last decade there have been adopted, modified, amended and approached an enormous number of legislative acts. Often the passed acts do not regulate the social relationships in an adequate way, furthermore, they are declared unconstitutional. In the report from 1999 of the Constitutional Court regarding the exercise of constitutional jurisdiction, it is mentioned that 26 (!) Laws were declared totally or partially unconstitutional. Often the laws or passed modifications defend party or group interests and not the interests of the society as a whole. Taking into consideration those exposed, we consider that it would be appropriate to have scientific basis for all the bills of law that are to be passed by the Parliament, in order to prevent an eventual negative impact on the society. In this view, we recommend the elaboration and enforcement of a law regarding the legal and criminological expertise. We consider that the expertise commission should include scientists and specialists in the field of law and criminology. The commission would activate within the Ministry of Justice.

Considering the mentioned facts we suggest to:

- 1) Revise the concept of the Department for Fighting against Organized Crime and Corruption;
- 2) Provide scientific support for the draft legislations that are to be adopted by the Parliament;
- 3) Plan state budgetary expenditures for the protection of the victim, witnesses and other persons assisting in the criminal procedure.
- 4) Operate modifications in the present Code for Criminal Procedure; stipulate in the draft of the Code for Criminal Procedure the following:

4.1. Procedure for reception and recording of the objects and documents in the criminal procedure;

4.2. A special procedure is proposed for the protection of the victim's witnesses participating in the identification of the suspect or accused, which excludes the possibility of identification of the witness by the accused or suspect (use of toned glass);

4.3. Examining the wiretapping and eavesdropping stipulated in the articles 156/1-156/3 of the Criminal Procedure Code of the Republic of Moldova, it is recommended to regulate the lawful surveillance in the same conditions, in order to widen the possibility of administration of evidence, particularly in cases that involve corruption and organized crime.

4.4.

stipulate in the Criminal Procedure Code of Moldova a special procedure of prosecution and committal for trial of corruption offenses.

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## **TRAFFIC IN WOMEN WITH THE INTENT OF SEXUAL EXPLOITATION**

Jana COSTACHI, Association of Women Lawyers

### ***What is the traffic in women with the intent of sexual exploitation?***

„The traffic in human beings shouldn't be considered only as a problem of organized crime control, but also as one of the most pressing problems related to human rights. The victims of human traffic endure severe and multiple violations of human rights. The traffic in humans violates the fundamental principles of human rights such as human dignity, personal freedom, freedom of movement, right to privacy, self determination and abolishment of slavery and practices related to them. (All the principles contained in the Documents of Human Rights: Universal Declaration of Human Rights, International Convocation for Political and Civil Rights, Convention for the Abolishment of Slavery).

„The state is obliged to prevent such violations of human rights, must undertake the necessary measures against those who violate these rights and provide the victims of human traffic with legal assistance and protection, indemnification and rehabilitation. In the case of accusation, this means that the efforts for punishment of the traffickers must be accomplished in a system that complies with and protects the rights of the victims to privacy, dignity and security.” (World Alliance against Traffic in Women). The traffic is the most vulgar form of discrimination and violence towards women qualified as the most modern form of human slavery. Traffic in flesh has unfortunately become a well-organized worldwide phenomenon, the majority of the victims of traffic being women that are coerced to prostitute or do something else. According to the protocol regarding the prevention, combat and punishment of traffic in human beings, particularly women and children, additional to the United Nations Convention against trans-boundary organized crime, “the traffic in human beings represents the recruitment, transportation, transfer, sheltering or reception of persons, by threatening with force or by the use of force or other forms of coercion, by abduction, fraud, trickery, abuse of power or of the situation of vulnerability, or by offering or receiving of payments or benefits in order to obtain the consent of a person that has control over another person with the intent of exploitation. Exploitation will include, to a lesser degree, the exploitation of the prostitution of a person or other forms of sexual exploitation, coerced work or services, slavery or practices similar to slavery, servitude or extraction of organs”. (Article 3, Paragraph a) According to the same Protocol, “the recruitment, transportation, transfer, sheltering or reception of a child with the intent of exploitation will be considered “traffic in humans”, by “child” implying any person under the age of 18.

### ***Who are the victims of traffic?***

According to the Report of the United Nations Workgroup, the victims of the traffic represent different social categories – from the richest to the poorest, from the most educated to the illiterate, from the youngest to the eldest. However, most of the victims come from poor families, often with many children, and from countries where the standard of living is beyond poverty. Usually in these families one or even both parents are unemployed or incapable of work. It is an ascertained fact that the network of traffickers includes persons that lived through stress, moral traumas, that

have been or are victims of domestic violence, incest, that had lost their job, homes, relatives, that were abandoned by parents, friends, and spouses.

For the Republic of Moldova, the phenomenon of traffic in women is not new, poorly studied or analyzed. According to the unofficial information, there are approximately 200.000 (other sources mention 600.000 and 800.000) people, most of them being women and girls, wandering throughout Europe in the search of jobs. A large part of them become victims of the sex-industry. The economic crisis and the recession of production, inflation, increase of the number of unemployed, the reduction of expenditures for the social sphere have had a disastrous impact upon the migration in the Republic of Moldova.

Often women and girls that become victims of the traffic are very young, being attracted abroad by friends, acquaintances or newspaper advertisements. According to a study in the particular field, accomplished by the nongovernmental organization “CIVIS”, out of the people interviewed – all being victims of traffic – all the women and girls went abroad with the intent to get a well-paid job, with the exception of a single person that was abducted. The determinant factor for the young women leaving the country is the unstable economic situation and the desire to assure oneself decent living conditions. In the case of most of the victims, the financial situation of their parents cannot provide the minimum living standards. The decision to go abroad, according to the study, was influenced in the exclusive way by traffickers, these being acquaintances or close friends who suggested them not to inform their relatives about their leave, as they say “to make them a surprise” upon the return. Half of the interviewees were aware about the traffic in women abroad, however they consoled themselves thinking that this possibility would avoid them. The other half could not even conceive the fact that women could become merchandise. The majority of the victims affirmed that all the papers necessary for leaving were prepared by the traffickers, the latter assuming the related expenses. The amount of money offered to the victims ranged from 50 to 200 US Dollars, and in the country of destination from 500 to 1000 US Dollars, the young women acknowledging the fact that they had been sold only on the way to the country where the job was promised. Out of 24 victims, approximately half were minors (under the age 18), more than half were between the age of 18 and 24 and only some of them were over 32. Most of the young women mentioned that they wouldn’t have been caught in the web of the traffickers, if they were better informed about the phenomenon of white slave traffic, thus avoiding this experience.

Nobody knows the exact number of women that had left their country in search of a way to support themselves or their relatives. It is only ascertained that the women make up 70 percent of the number of emigrants from Moldova. In most of the cases they leave the country having a very vague idea about the place they are going to and about what is expecting them abroad. Sometimes young women are sold as slaves, locked in and deprived from any possibility to escape or at least to communicate with somebody.

### ***How do women get into the trap of the traffickers?***

Young women are caught in the trap of the traffickers in different ways. Corporate, as well as physical persons could be recruited. In the case of physical persons, usually, these are persons that have had the chance to travel abroad and establish certain relationships and came back with the mission to recruit young women. They are specially involved in this activity by their past procurer, being blackmailed that their



names will be made public and that the public opinion will be informed. It also happens that a part of them develop their own business out of this occupation. Other ways: the young women are offered jobs abroad, which are plausible at the first look. However, when they get to the site they ascertain the fact that they had been defrauded. Young women are attracted by newspapers advertisements that “promise” them that they will build a career in dancing, modeling, hotel industry or work in the field tourism abroad. Taken to the destination country, they are deprived of their passports and forced to become slaves of the traffickers. There also exists a category of young women that are coerced by their parents or spouses to find a work abroad.

### ***General factors that favor traffic and prostitution***

**Economic factor:** poverty, unemployment, lack of opportunities for the young generation, consumer spirit, low incomes, division of population into rich and poor, influx of the information about the well-being from the Western countries presented on TV channels.

**Social factor:** low level of education, inexistence of a support on behalf of the society, the lack of clairvoyance, the conflict between generations, loss of influence of family in the society, the loss of values in the society.

**Political factor:** inexistence of state strategies regarding migration, imperfect national legislation in this field; the inertness of the state that doesn't manage to protect its citizen working in other countries; lack of some strategies to restrain unemployment.

### ***What is expecting the victims in the destination countries?***

In the countries of destination the victims of the human traffic are deprived from the rights of self-determination, freedom and security. They cannot choose the duration and the conditions for their activity and in the case of prostitution they are deprived from the possibility to protect themselves against sexually transmitted diseases. Almost in all the cases, the trafficked persons are coerced to perform slave work. They are in total dependence from the traffickers.

In the countries from Europe and Asia the young women, between the ages of 16-25, are invited to participate in different beauty contests and for work in advertisement agencies. In February 2000, in Albania, at the UNO Higher Commissioner for Refugees some 40 young women that had been involved in prostitution in Italy were waiting for registration. They were the victims of violence on behalf of their clients and procurers. Many young women are involved in prostitution in Turkey, some of them being minors not having a passport.

Albania, Kosovo, Bosnia became at this moment international centers for traffic in women with the intent of sexual exploitation. Many of them, being used for prostitution, ultimately disappear without signs and their bodies are dismembered for organs. More often, among the young women from Romania, Bulgaria, one can find

young women from Moldova. It is known already about the organized networks of traffic on the route Chisinau-Romania-Albania

According to the Ministry of Internal Affairs, the main directions for the traffic in women are:

- Turkey, Cyprus, Greece;
- Lebanon, Syria, Israel, Arab Emirates, Romania, Hungary, Bulgaria, Slovakia;
- Bosnia-Herzegovina, Macedonia, Albania;
- Italy, France, Portugal;

The tariffs vary depending on phases of traffic in women:

- In the rural areas (where the recruitment usually begins) the price for young women is between 50 and 100 US Dollars;
- In Chisinau the young women are sold to the traffickers for 100-200 US Dollars;
- In Romania the price for the young women varies between 300 and 400 US Dollars;
- In Bosnia-Herzegovina, Macedonia, Albania, countries of transit and destination, the prices for Moldovan girls vary between 4.000 and 10.000 German Marks (this information has been provided by the Ministry of Internal Affairs).

According to the information presented by the workers of legal institutions, a particularly important issue is the traffic in minors from Moldova to Russia. In the number of underage prostitutes delivered to Russia Moldova by far outran Ukraine, which maintained the primacy for a long time. Annually, approximately five thousand of young women from Moldova are taken to Russia and forced to perform sexual services. In the summer of 1999 the militia from Moscow discovered two particularly successful dens. Out of the girls that were found there, 15 were Moldovan minors sold for slavery for 400 US dollars each. The price for their virginity was \$ 150.

### ***Strategic and legal aspects***

Unfortunately, at the present time there is no viable national strategy oriented towards the prevention and eradication of this social vice. Nor are there consolidated efforts on behalf of the related institutions. These actions are spontaneous and have a sporadic character. The existent legislation of the Republic of Moldova is insufficient for the solution of the whole range of problems related to human traffic. The laws do not provide the adequate mechanisms for the enforcement of punishment of the people involved in traffic, for the protection and rehabilitation of the victims. At the national level it is particularly important to assure the cooperation between the state institutions and nongovernmental organizations that militate against the phenomenon of traffic in humans.

In order to stop this social vice, on July 30<sup>th</sup>, the Parliament passed a law regarding the amendment of the Criminal Code and the Code of Criminal Procedure, introducing Article 113/2: "Illegal traffic in human beings". The draft was elaborated by several institutions: The section for fighting against the human traffic of the Direction of Criminal Police of the Ministry of Internal Affairs in collaboration with the Legal Service of the Ministry of Internal Affairs, Police Academy and

coordinated with the Ministry of Justice, Prosecutor's Office, Information and Security Service, Ministry of Labor and Social Protection, Ministry of Economy.

According to article 113/2 from the Criminal Law, the illegal traffic in human beings, with or without their consent, accomplished with the intent of use of forced labor of the person or keep the person in the state of slavery, of the use of the person in military conflicts, of sexual exploitation of the person in different forms or of the person's use in pornographic industry, etc. is sanctioned with a 5 to 25 year imprisonment with the forfeiture of estate.

However, this law is not quite perfect. Its modification is necessary in the future.

Petra Follmar, lawyer and legal expert in the field of women's rights, in the "Analysis of existent legislation and drafts of legislation regarding the fight against human traffic in the Republic of Moldova", sustains that the "modern traffic in human beings is a global phenomenon that affects all the ages and sexes, but a large part of the persons involved in human traffic are women and children. This is why we have to consider the specific aspects that related to the gender of the person and children vulnerability. The victims are trafficked for many abusive purposes and for exploitation by the use of numerous means of coercion or trickery. Observing the traffic from Central and Eastern Europe to the countries of destination of Central, Southern and Western Europe, North America and Asia, the women who are trafficked with the intent of coerced prostitution form the vast majority of human traffic victims." (Lawyers for Human Rights, Minnesota) However, due to the clandestine character of this offence, any statistics or information on traffic fails to illustrate the real situation in the matter. The traffic for purposes other than prostitution, such as forced marriages and housework, does not attract the complete attention of the legal institutions, and the ability of victims found in such situations to seek assistance is rejected.

### ***Moldova's participation in the Stability Pact***

On October 13, 1999 in Oslo, during the Reunion of Inauguration of the Workshop III of the Stability Pact it was decided that the problem of Human Traffic be included among the main priorities of the Pact and OSCE. The participants also planned the creation of the Group of Action specialized in the solution of this problem. This group was created on September 18, 2000 in Vienna. One of the main objectives of the Group of Action is strengthening of regional cooperation among different participants in the process of fighting against human traffic from the South-Eastern European region. As general priority of the group was declared the development of a three year plan that would approach in an efficient way the three dimensions of the fighting against this phenomenon: prevention, protection and prosecution of the guilty party. At regional Ministerial Forum held in Palermo in December 2000, the ministers from the countries participating in the Pact, including the Moldovan minister, signed an anti-traffic declaration in which they recognized the importance of the problem within the region and decided upon the accomplishment of joint anti-traffic activities: programs for prevention, assistance and protection of the victims, legislative reform in this field, building awareness of the public opinion of this issue, training and special preparation for cooperation of the border guards, police forces, judges and

prosecutors, staffs of consulates. In order to assure the implementation of the Declaration and in order to stimulate the development of a regional anti-traffic strategy, the Group of Action has elaborated the anti-traffic Plan of Actions for the South-Eastern Europe. This plan implies the creation of quality shelters (at least one

in every priority country), national systems of return and reintegration in the society of the victims, as well as creation of the Regional Coordination Office for the National Networks of protection and Assistance with the headquarters in Belgrade. This office will collect information regarding the situation in the region and will analyze the undertaken actions. The countries participating in the Initiative were requested to perform activities for improvement of the institutional capacities and for the identification of the economic and social premises that condition the facilitation of human traffic. At the same time, it was decided that the Governments of the countries participating in the initiative form national workgroups, develop national Plans of Actions, support the National Mechanisms for Coordination among the governmental, international and nongovernmental organizations, as well as assure the involvement of the Government in the anti-traffic activities at the national, regional and international levels. In order to facilitate the elaboration of national strategy, a Guide for National Plans of Actions was developed. A series of organizations have assumed responsibilities within the Group of Action. Due to the political and diplomatic efforts undertaken between 1999 and 2000, the European Union decided in December 2000 to support the adherence of the Republic of Moldova as a participant with full rights to the Stability Pact for the South Eastern Europe.

Following the adherence to the Stability Pact, the Republic of Moldova created the institutions for participating in the activities of this regional commitment, particularly by creation through the governmental decision no. 1110 from October 18, 2001, of the National Coordinator for the Stability Pact and by creation of a inter-ministerial Committee containing experts of departments and ministries that will be involved in monitoring on national scale of the Stability Pact's activities and initiatives.

At the present stage the Republic of Moldova has involved in several projects and initiatives of the Pact related to all the three workshops of the Stability Pact.

On November 9, 2001 the Government of Moldova approved the nominal composition of the National Committee for the fighting against the human traffic, which established the objectives of the activities and the responsible for the monitoring of proposed activities.

The national action group for the fighting against of human traffic has established the following objectives: evaluate the problem's dimension, discover the causes and vulnerability of certain social groups, methods of recruitment of the persons, build awareness of the society of the dangers related to human traffic, reduce the susceptible activities in order to decrease of human traffic, assure the protection for the victims of traffic, harmonize the national legislation with the community legislation in the field, prepare the personnel authorized to enforce the new legislative instruments, etc.

Within the Stability Pact the Republic of Moldova was accepted beside Romania and Bulgaria for the implementation of the project "The reform of penal legislation in the field of traffic in human beings in the South Eastern Europe" which constitutes the contribution of the Council of Europe to the implementation of the objectives of workshop III within the Stability Pact. A national group of experts was created to implement this project in Moldova composed of representatives from the Ministry of Foreign Affairs, the Ministry of Internal Affairs, the Ministry of Justice and

nongovernmental organizations, represented by the Center for Prevention of Traffic in Women.

The first regional reunion on the issue of human traffic within the Stability Pact was held in Bucharest, Romania during October 24-26, 2001. The second reunion took place on 12-14 of December with the participation of experts from the Council of Europe, Romania and Moldova.

The topics discussed during the second regional reunion included the positive experiences and problems related to the modification of the legislation in effect and the continuous process of elaboration of legislation in this field.

The experts of the Council of Europe have emphasized the fact that in order to make the process of combat and prevention of the human traffic more efficient it is necessary to adopt long term measures as well as the instruments of guaranteeing a sustainable economic and social growth, which will diminish and limit the risk of traffic. Taking this thing into consideration, the groups of local experts have developed recommendations for short and medium term measures that should be undertaken with the purpose of prevention, investigation and incrimination of the human traffic as offence as well as measures for the assistance and protection of the victims. A very important moment for the implementation of the legislation is the knowledge in the field of the representatives of the legal institutions: police forces, prosecutor's office investigators, judges and lawyers.

### ***Participation of civil society in the solution of the traffic problem***

In this situation a very important role in the fighting against the traffic is played by the NGO's, which by collaborating with different international organizations set their objective to prevention of expansion of this social phenomenon. The nongovernmental organizations can contribute in at least two segments related to human traffic: prevention of this phenomenon by the accomplishment of information campaigns among the potential victims of traffic and rehabilitation of repatriated persons.

Recently in the Republic of Moldova was launched a project supported by the US Embassy in Moldova and implemented by the United Nations Development Programme (UNDP). The project is called "Center for Prevention of Traffic in Women" and has as main purpose the prevention of traffic in women through information and documentation as well as through the creation of an efficient anti-traffic network involving different international partners, state structures including representatives of legal institutions, nongovernmental organizations that are activating in this field. The Center was created as an organization for collection of information from around the country and region with the intent to coordinate and complete the efforts in the field of eradication of the respective phenomenon. It has been considered that a nongovernmental organization would make a significant difference activating in this direction, in the conditions when this activity proves to be problematic for the Parliament and the Government.

On February 15, 2001 was launched the Center for Prevention of Traffic in Women, project supported by the US Embassy in Moldova having the following objectives: creation of a functional mechanism of information about the phenomenon of traffic in women; information and documentation of persons about the legal immigration and about the eventual risks in case of illegal immigration; information of the victims of traffic about the possibilities of assistance and rehabilitation that exist in different countries; monitoring of activities oriented to the fight against human traffic in order to increase the efficiency of coordination of actions; building awareness of the society of the problems related to the traffic in human beings by informing the society of the phenomenon.

In order to accomplish these objectives, the Center launched on April 16, 2001 a hotline, available daily from 08:00 until 20:00 except Sundays. There have been published a series of brochures and leaflets containing useful information about the human traffic. The Center has already published 7 issues of the monthly information bulletin and two issues of quarterly "Anti-traffic Magazine". The national Radio has provided the Center with the broadcast time within the program "Unda Diminetii" ("Morning Wave"), and in collaboration with the independent radio station "Radio Nova" has been initiated a cycle of Sunday thematic programs called "Femei si Destine" ("Women and Destinies"). In collaboration with Open World House TV Studio, the Center has initiated a series of monthly programs called "16-25 Export" within the National Television broadcast.

Anti-traffic publicity is permanently presented in the national press: „Flux”, „Săptămîna” (“Week”), „Timpul” (“Time”), „Moldova Suverană” (“Sovereign Moldova”), „Pro Legea” (“Pro Law”), „Makler”, etc. The advertisement with the phone number of hotline is broadcasted through the radio and TV, downtown there are two billboards, all these are part of the anti-traffic campaign. Moreover the Center has developed a website that includes a anti-traffic database with related information and coordinates.

The anti-traffic activity cannot be limited to the efforts of the Center, in order to increase the efficiency a tight collaboration among national and international institutions with attributions in approaching this issue is necessary. In this context, the Center has already established relationships with a series of governmental, diplomatic, migration and nongovernmental organizations. The Center for the Prevention of Women Traffic intends to act in collaboration with these particular structures for the unification of efforts, and the publicity of this phenomenon will become a viable instrument for action.

Considerable efforts for the repatriation and rehabilitation of the victims of traffic in women are made on behalf of the International Migration Organization, local organization "Save the Children" whose contribution is rather relevant in this sense. In the case when women manage to escape, the Moldovan society is very skeptical and intolerant in this sense, these women being marginalized even by their friends and their family members and the possibility of social reintegration and rehabilitation of these women being practically null. Upon their return, the women that endured the negative consequences of the traffic do not benefit from the support of the Government and the possibilities for a support on behalf of nongovernmental organization are limited

## ***Conclusions***

„In spite of the fact that there are many interdictions related to the human traffic, the international networks involved in the trade with women and children continue to flourish. The success of these networks could be attributed to some factors, such as the orientation of global economy, the decline of social and economic status of women, the demand that exists in the countries of destination and enormous profitability of this kind of businesses, apathy on behalf of the governments and even the complicity of governments. The traffic from Eastern and Central Europe to Southern and Western Europe finds its origins in the high unemployment rate among women and poverty in the countries of their origin” (International Foundation for Human Rights from Helsinki), in “the romantic visions about the jobs abroad and about the sex industry” (Lawyers from Minnesota for Human Rights), as well as in the relative short distances from the geographic point of view that make the recruitment and transportation of the women cheaper and more efficient which ultimately simplifies the control over the victims’ families.

An enormous gap represents the lack of information about this issue, which is not only a national problem, but also a transnational one, which requires an adequate approach and common efforts on behalf of all the governments from the region.

It is complicated to determine the problem itself, and, most importantly, to prove that an organized transnational crime was committed with the participation of different international criminal groups. This constitutes an important barrier in the solution of the particular problem. This fact emphasizes the necessity of coordination and development of a plan of coordination actions between governments and nongovernmental organizations in the whole region. The phenomenon of human traffic went beyond state boundaries a long time ago, becoming a factor of destabilization and demoralizing of large proportions. The cooperation among the countries of origin, transit and destination for the persons represents today an indispensable condition. The dangers of this human vice can be annihilated only through common efforts.

### ***In the context of the above mentioned facts we can ascertain the following:***

There are no multilateral analyses of the phenomenon of human traffic in the Republic of Moldova.

- The statistical information is approximate and sporadic;
- The Moldovan legislation does not include and clarify the notion of human traffic;
- In the last years, Moldova is “actively” included in the illegal network of international human traffic;
- The Government of the Republic of Moldova is weakly involved in the real obliteration of the traffic in women ;
- The problem of fight against the traffic in women and girls is in the center of attention and activities particularly of some NGO from the country;
- The representatives of legal institutions do not posses the necessary knowledge of enforcement of legislation regarding women traffic.



***Recommendations:***

- Improvement of national legislation by defining the notion of traffic in all its forms and development of mechanisms for obliteration and punishment of offenses related to the human traffic;
- Development of a network of psychological and medical assistance, asylums for the victims of the traffic for sexual exploitation;
- Creation of international and national anti-traffic networks;
- Publicity of the phenomenon and the information of the population about the dangers of traffic through the use of available mass media, press, new information technology such as television, internet, etc;
- Creation of an efficient system of coordination among different branches of the executive power (including between the government and NGO's) and application of a multi-disciplinary mechanism in the field;
- Establishment of social programs and policies for prevention of human traffic, including economic and legislative actions;
- Organization, in cooperation with civil society and NGO's, of a public information campaign about the traffic in all its manifestations, including the methods used by traffickers and the risks for the victims;
- Training of the representatives of legal institutions: police officers, judges, prosecutors, authorities from consulates and embassies, including the aspects of human rights in the process of human traffic and obligations of the member states to assure assistance to the victims of the traffic;
- Adoption of policies and regulations for the treatment of traffic victims;
- Accomplishment of anti-corruption measures, including investigation and prosecution of the official persons involved in accepting bribe from traffickers;
- Development of mechanisms for cooperation and collaboration among the involved countries in strengthening the anti-traffic measures in the region.

## **CONSOLIDATION OF NATIONAL CAPACITIES FOR FIGHTING CORRUPTION IN THE REPUBLIC OF MOLDOVA AND THE NATIONAL “ANTI-CORRUPTION” PROGRAM**

Efim OBREJA, “Transparency International – Moldova”

Ladies and Gentlemen, honorable audience,

I thank the organizers of the reunion for the initiation and for opportunity to express ourselves on such a complex problem like the fighting of the phenomenon of corruption. I represent the nongovernmental organization “Transparency International – Moldova”, which pays a special attention to the study of the phenomenon of corruption in the Republic of Moldova. We are preoccupied with the principal aspects of the phenomenon, revelation and implementation of the optimal measures which will contribute to the prevention and eradication of corruption in the Republic of Moldova.

The phenomenon of corruption is interpreted in different ways. Some would say that corruption is a flagella of the society, others equalize corruption with mafia, underground economy or organized crime; or define corruption as behavior of the officials that deviates from the accepted norms of the legislation in order to serve personal goals. It is also said that corruption is an abuse of power of the civil servants with the purpose to obtain personal benefices or that corruption is a social phenomenon characterized by the bribery of officials.

In other instances the phenomenon of corruption implies the promotion of the relatives, friends, and political allies (so called nepotism).

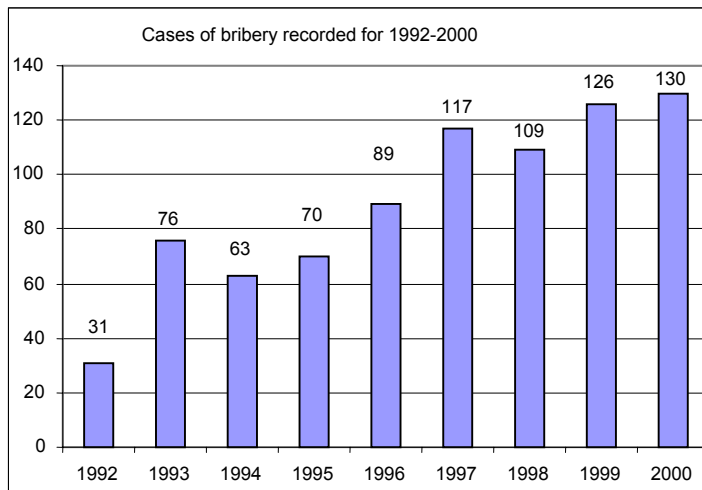
The Law no. 900-XIII from 27.06.1996 regarding the fighting of corruption and protectionism stipulates the terms “corruption” and “protectionism”:

“Corruption is an anti-social phenomenon that represents an unofficial covenant between two parties, one offering or promising illegitimate privileges or profits, the other, involved in public service consenting or receiving them in exchange of the execution or non-execution of certain functional actions that contain elements of infractions stipulated in the Criminal Code”;

“Protectionism is an action or inaction of the decision factor related to the protection in the solution of some problems of interested persons, through a favorable attitude towards them, disregarding the reasons, which do not contain elements of infractions”.

If we are to generalize all these definitions we learn that in all the cases corruption, which in a larger sense includes the protectionism (traffic of influence), is perceived (treated) as negative social phenomenon that must be prevented and eradicated.

What is the level of corruption phenomenon in the Republic of Moldova? If we are to examine the official statistical data we notice that during the period of 1992-2000 the number of bribery cases increased from 31 recorded infractions in 1992 – to 130 in 2000, that is about 5 times bigger (see the diagram), and during only 9 months of 2001 there have been recorded 129 infractions, which corresponds to the number of infractions recorded for the whole year 2000.



It is obvious that the number of bribery cases recorded by the legal institutions is just a small part of the number that occurs in the reality. This is felt and well known by the citizens and legal entities (especially economic agents), that are facing with this phenomenon in different fields of activity.

If we accomplish another evaluation of the acts of corruption we will get the following results: according to

the surveys from 1999, about 33.3 percent of the companies pay bribes of a frequent basis. That is to say, if we consider that in the Republic of Moldova there are approximately 600 large tax payers and about one third of them frequently pay bribes (we suppose 10 times a year in average), then the number of bribery cases would constitute about 2000, and if we consider the number of tax-payers on January 1<sup>st</sup>, 2000 recorded at the territorial state fiscal inspectorates, we can easily compute that the number of bribery cases solely due to this factor constitutes about 1.5 million. Thus, those about 130 bribery cases recorded by the legal institutions in 2000 are practically nothing in comparison with our calculation.

It was established that in bribery cases different categories of civil servants were involved. For committing crimes of this type, during the year 2000 were captured persons with responsible functions from within the local and central public administration, including within ministries:

- Ministry of Internal Affairs – 36,
- Ministry of Finances – 17,
- Ministry of Health – 11,
- Ministry of Education and Science – 9,
- Ministry of Transportation and Communications – 6,
- Ministry of Industry and Energetic – 5,
- Ministry of Justice – 5,
- Ministry of Defense – 3,
- Agriculture and Processing Industry – 2,
- Ministry of Environment and Territorial Development – 1,
- Prosecutor's offices – 1,
- City halls - 2, etc.

As shown in the Report for 1999 of the Ministry of Internal Affairs “corruption penetrated the majority of spheres of activity of the state and a large part of the persons with responsible functions are affected by this vice”.

At the high level it is recognized that in the Republic of Moldova the corruption penetrated all the spheres of activity, including in the superior state spheres and legal institutions.

This data shows the deepening and the increasing spread of corruption in the Republic of Moldova.

The previous researches accomplished by the „Transparency International – Moldova” also show that the corruption in Moldova is getting deeper.

According to the calculations, the indices of corruption perception in Moldova for the year 2000 constituted 2.6 (where 10 is the absence of corruption and 0 – total corruption). According to the indices of perception of corruption, Moldova is placed 76 out of 99 countries (the countries at the end of the list have the highest level of corruption).

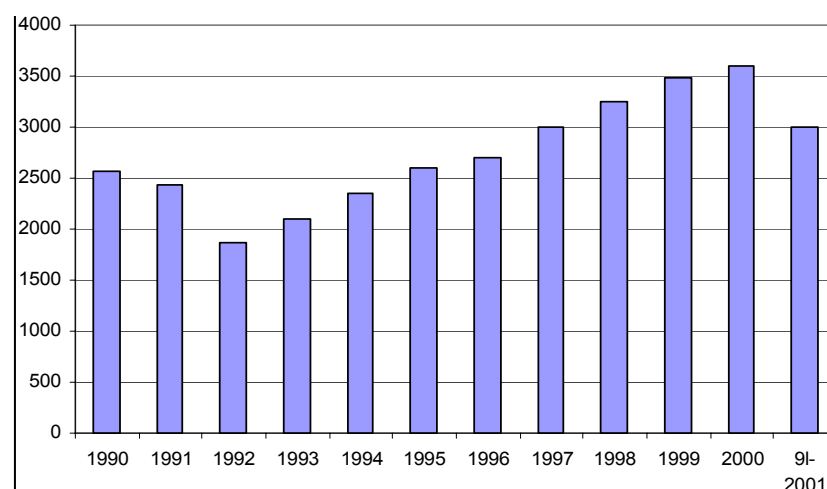
The damage cause to the state and its citizens as a result of sole bribery cases is rather impressive and constitutes approximately 1.72 million Lei (cases recorded in 2000).

The analysis of corruption phenomenon denotes that even bigger are the consequences of the acts of corruption. The acts of corruption are primarily committed or ale linked with other severe infractions, especially with economic and financial infractions or those related to organized crime.

According to the statistical data, it has been learned that solely in 1999 approximately 795 infraction of economic nature (or approximately 24%) contain elements of corruption and protectionism. Out of the number of crimes of economic nature recorded in 2000, respectively 1028 (28.6 %) of the infractions have a severe social character, approximately 303 (8.7 %) contain elements of corruption and protectionism. For the economic and financial infractions, 2189 persons, including 600 (27.4 %) with highly responsible functions, were captured and penalized.

The analysis of the evolution of criminal situation denotes an increase of the share of economic infractions which cause considerable damages to the state and its citizens.

Economic infractions recorded in the period 1990 – 2001 (9 months)



The damage caused as a result of economic infractions in 2000 constitutes approximately 149,4 million lei, including embezzlement through abuse – approximately 36,2 million lei, fiscal infractions – about 67,3 million lei, contraband - 15,0 million lei.

Information regarding the material damage of the infractions committed in 2000 (million lei)

Type of infraction	Damage	
	Caused	Restituted
In general	406,61	107,31
Economic crimes, including	149,39	95,29
Embezzlement through abuse	36,18	15,87
Bribery	1,72	0,137
Contraband	15,04	12,45
Financial – banking crimes	15,93	8,01
Fiscal	67,29	49,06
Committed by persons with highly responsible functions	10,02	5,49

Fiscal infractions are committed with the purpose of obtaining a larger profit in a shorter term. If in 1999 on the territory of the Republic of Moldova were recorded 582 infractions, then in 2000 the number of such infractions was 795, i.e. with 36.6% more with a material damage of approximately 65,9 million lei.

The main state tax inspection informs that as a result of accomplished controls for the year 2000, violations of tax legislation were recorded at 24138 tax-payers, which constitutes 61,0% from the number of controlled enterprises. According to the data provided by the Financial Guard, this index constitutes 80 percent. For the committed and discovered violations in the process of controls for the year 2000, the collaborators of the State Tax Service have written down 38.1 thousand of verbal-processes regarding administrative contraventions. In 20.4 thousands of cases the verbal processes were written for the violation of the method of calculation and payment of taxes and other payments to the budget and extra-budgetary funds, in 3.7 thousand of cases – for the violation of the methods and terms of presentation of tax forms, in 5.3 thousand of cases – for illegal entrepreneur activities. The analysis of the situation indicates that the fiscal evasion becomes an ordinary thing for the majority of economic agents.

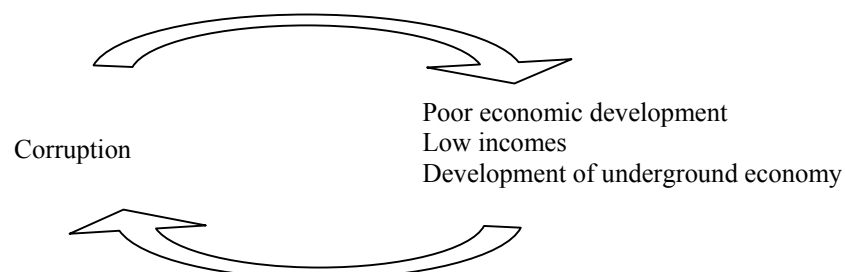
Such a tendency is observed in the activity related to the payment of customs taxes. In order to obtain illegal profits by avoidance of payment of customs taxes the contraband activity intensified significantly. During the year 2000, 195 of such infractions were recorded, that is to say with a 57.3 percent increase compared to 1999. The contraband primarily includes consumption goods, tobacco, petroleum products, alcohol, medicine, chemicals, as well as other commodities.

The means obtained from illegal activity are laundered and included in the underground (parallel) economy. According to the appreciation of the experts, approximately 47 percent of the labor force is involved in illegal economic activities. 60 percent of additional income in the official economy – leads to unequal redistribution of the income among population, that is to say widens the gap between the rich and the poor. More social benefits are obtained by the layer of the population with superior incomes, while the population involved in the sector of underground economy cannot benefit from social security and assistance on behalf of the state.

The underground economy leads to an increase of tax evasions, decrease of payments to the budget. For example, in 1998 the salary debts constituted 276 million lei. The underground economy is affecting consumers by reduced quality of services and goods.

As a result of these phenomena, the Gross Domestic Product (GDP) decreased rapidly and in 2000 constituted 26% of the GDP from 1990 (the GDP per capita in 2000 constituted \$ 360 – the lowest one among the states in transition). An inverse proportional relation between the level of the GDP per capita and the index of corruption has been established – the larger is the index of corruption – the lower is the GDP. This fact can be noticed including from the data provided above, which, according to the indices of perception of corruption, places Moldova among the countries with a poorly developed economy.

Thus the corruption contributes to a weak economic development, to low incomes and to the development of underground economy, and ultimately contributes to the deepening of corruption creating a closed circuit according to the scheme:



Exactly from these reasons it is considered that “Corruption is a barrier in the economic development and blocks the course of reforms in the country”.

Besides the fact that corruption causes enormous material and financial damage for the state, these actions lead to the discretization of public authorities and undermine the stability in the society. Penetrating the public services, the phenomenon of corruption undermines the democratic base of the newly forming society, discredits the activity of public administration, state apparatus at all levels, denaturizes the principles of legality and blocks the accomplishment of economic reforms.

The phenomenon of corruption contributes to the creation of an economic and political clan that imposes its will to the society, ignoring the necessities of the society and contributing to the enormous growth of the state debts.

The increase of fiscal evasion and the reduction of budgetary payments determine the failure of the policy of support for the entrepreneurship and small business, social policy, policies in the field of education, healthcare, environment, remuneration of work of the state employees. The confidence in the promoted reforms is decreasing.

The incapacity of the state to remunerate at a decent level of its employees paralyses the state institutions and affects the constitutional rights and provisions of the citizen...

Therefore, besides the negative economic impact there is a negative impact on society and political security of the state.

Considering the fact that some civil servants in many cases accept the bribe on behalf of the infractors, particularly authorities and members of organized crime groups, thus protecting their illegal interests, the officials become dependent on organized crime and are financed by it.

Through acts of bribery (corruption) the corrupt officials protect the interests of organized crime, accept the contraventions related to organized crime, thus contributing to the increase of illegal circulation of drugs, arms, contraband with commodities, money laundering, prostitution, traffic of human beings and other infractions related to organized crime. From this reason corruption represents a form or an element of organized crime and is perceived as “mafia” or “organized crime”.

From the first stages of development in conditions of market economy, when it was obvious that the phenomenon of corruption is getting deeper in the Republic of Moldova, a series of measures were taken in order to stop this phenomenon.

On 30.04.1992, through the Presidential Decree No.104 “Regarding the measures of fighting organized crime within the state institutions and state administration” the Coordination Council for fighting corruption was created.

On 08.11.1994 through the Presidential Decree No.315 was declared the creation within the Government of the Coordination Council for fighting corruption and criminality and assurance of legal order.

On 04.05.1995 the Parliament adopted the Law of public service No. 443-XIII.

On 07.07.1995 the Parliamentary Decision No. 518-XIII was adopted and the Special Parliamentary Commission was created to control the execution of legislation related to fighting corruption

On 14.03.1996 the Parliamentary Decision No.780-XIII was adopted which declared the creation within the Government of the Direction for Personnel policy

On 27.06.1996 the Parliament adopted the Law no.900-XIII regarding the fighting of corruption and protectionism.

On 30.04.97 the Parliament adopted the Law no.1166-XIII on acquisition of commodities and services for the state necessities.

On 09.07.99 was adopted the Law No. 491-XIV regarding the local public finances.

Furthermore, the Parliament adopted modifications and amendments to the articles of the in Chapter VIII of Criminal Code “Infraction committed by persons with highly responsible functions”. This Chapter was also amended with new articles:

- Law from 03.05.1996 – Art.189<sup>1</sup> „Abuses in issuing securities”;
- Law No.1326 from 25.09.97 – Art.189<sup>2</sup> „Abuses in the securities market”;
- Law No.1375 from 19.11.1997 - art.188<sup>1</sup> „Traffic of influence”, art.189<sup>3</sup> „receive of illegal benefits by officials” and art.189<sup>4</sup> „Disrespect on behalf of the persons with highly responsible functions of the requirements of the Law regarding the fighting of corruption and protectionism”.

New articles were also included in the Code regarding the administrative contraventions, such as article 174<sup>17</sup> “Protectionism” and article 174<sup>18</sup> „Disrespect of the provisions of the Law regarding fighting corruption and protectionism” adopted through the Law 1375 from 19.11.97.

Furthermore, the Parliament adopted a series of laws related to the activity of different categories of civil servants:

- Law no.902-XII from 29.01.1992 regarding the prosecutor’s office;
- Law no.39-XIII from 07.04.1994 regarding the status of the deputy in the Parliament;
- Law no.544-XIII from 20.07.1995 regarding the status of the judge;
- Law regarding financial institutions no.550-XIII from 21.07.1995;
- Law no.186-XIV from 06.11.1998 regarding local public administration, the Law no.416-XII regarding police forces from 18.12.1990.

Considering the fact that the level of corruption got higher, the Decree of the President from 07.04.1997 instituted a specialized subdivision “Department for Fighting Organized Crime and Corruption”.

Here I would like to summarize that the Republic of Moldova possesses the potential and capacities oriented towards the prevention and eradication of corruption.

To what regards the efficiency of the undertaken measures in fighting corruption, we must admit that visible results have not been achieved until present.

Moreover, the reports of the legal and control institutions prove the aggravation of the situation.

The undertaken measures were not sufficient to create the conditions or the equilibrium when both sides involved in activity of corruption (civil servants or the persons with highly responsible functions on one side, and the physical or legal entities on the other) do not accept the phenomenon of corruption

Until present the most important issues are:

- building awareness of the public opinion, promotion of a behavior that corresponds to the ethical norms;
- coordinated incrimination of the national and international corruption;
- assuring independence to the persons meant to prevent, inquiry, prosecute and sanction infractions related to corruption;



- adoption of appropriate means for the tracing and confiscation of the products of corruption;

- adoption of appropriate measures in order to avoid the cases of use of moral persons as a screen for hiding infractions of corruption;
- limitation of the immunity against inquiry and sanctions related to corruption crimes necessary in a democratic society;
- assure that fiscal legislation and the authorities with the competence of implementing this legislation do contribute (efficiently and in coordination) to the eradication of corruption;
- assure a compatible degree of transparency
- the issue of the number of civil servants and the structure of public institution;
- adoption of the moral codes of behavior and settlements for public agents in accordance with the requirements for fighting corruption, which would provide an appropriate and efficient discipline.
- Provide appropriate audit procedures for the activities of the public administration and public sector;
- Adoption of procedures related to public markets with an adequate transparency in order to favor loyal competition and discourage corrupted persons;
- Assurance of the mass media with freedom to receive and communicate the information regarding corrupted businesses;
- Encouragement of research in the field of corruption;
- The problem of money laundering and the relationships between corruption and organized crime;
- The issue of adjustment of national legislation to the international standards and development of cooperation with international community.

In the present legislation and in the activity of fighting corruption there are a series of gaps and contradictions that do not contribute to an efficient eradication of corruption. Here are some contradictions:

The Law regarding fighting corruption and protectionism	Criminal Code
Notion: corruption	Notions: receiving bribe; Mediation of bribery; Giving bribe
Notion: protectionism	Notion: traffic of influence

Moreover, some legislation contributes to the creation of obstacles in the activity of fighting corruption. I am talking the legal provision of immunity to some categories of officials, such as parliamentarians, judges from different courts, prosecutors, prosecutor's office interrogators, a fact that does not allow efficient documentation and tracing of corrupted persons and, to a large extent, blocks the eradication of this phenomenon.

The nonconformity of the national legislation with the legislation of the European Conventions is also visible. It can be observed, for example, from the dissimilarity of responsibilities.

Penal convention regarding corruption	Criminal code of the Republic of Moldova
Responsibilities: - active corruption of the national public agents; - passive corruption of the national public agent; - corruption among the members of national public assemblies; - corruption of foreign public agents; - corruption of the members of foreign public assemblies; - active corruption in private sector; - passive corruption in private sector; - corruption of international officials; - corruption of the members of international parliamentary assemblies; - corruption of judges and agents of the international courts;	Responsibilities: Receiving bribe; Mediation of bribery; Giving bribe
- traffic of influence;	- traffic of influence;
- laundering of the products of corruption activity;	- --- ;
- morale persons;	- --- ;

The civil servants, being forced by the created circumstances and using the possibilities of their position, continue to receive bribes under different aspects; the citizen, being disillusioned in the capacities of the governmental institutions to eradicate this phenomenon, accept the bribes in order to solve their pressing problems, and a number of physical and corporative persons, in order to illegally acquire goods in a short period of time are even interested in the corruption of the officials. This fact is confirmed by the statistical data and accomplished surveys. Out of the people interviewed in 2000 approximately 10.1 percent of the public officials evaluated their living situation in the last year as very unsatisfactory, 47 percent – as unsatisfactory and only 3.9 percent – as good. On the other hand, 56% of the businessmen evaluated the living situation as satisfactory and 12.3% - as good. This is the exact reason for the fact that the majority of recorded bribery cases represent getting bribes by the public officials. According to the surveys – most of the citizen and economic agents are willing to accept bribery for the solution of their problems because otherwise they will have serious problems with public officials. Bribery offers the possibility to get rich faster, as result of illegal activities (such as avoidance of tax payment, contraband with commodities, etc.). As consequence, the phenomenon of corruption isn't eradicated and even continues to grow.

Very concerning is the fact that a good part of the economic agents and citizen are willing to offer bribes. This is remarked from the surveys accomplished by Transparency International – Moldova. These aspects force us to take insistent actions of fighting corruption, on whose results depends the level of development in the country.

The widespread phenomenon of corruption in Moldova, as well as in other countries in transition, cannot remain unobserved by the international institutions. This is the reason why UNO, the Council of Europe and other organizations have launched a series of programs meant to fight corruption.

For example, wishing to join the efforts of different countries in the fight against corruption, to harmonize the legislations and the means of solution of this problem, the Council of Europe accomplished several activities:

- Adopted the Civil and Criminal Convention on corruption, which were signed by the Republic of Moldova in 2000.
- Launched the common Program of the Council of Europe and European Commission for fighting against corruption and organized crime within countries in transition (Octopus I and Octopus II) during 1997-2000;
- Created the group of states against corruption GRECO;
- Launched the Program “the Stability Pact in the South-Eastern Europe” which includes programs for fighting corruption (SPAI) and organized crime (SPOC), in which the Republic of Moldova participates.

Within the Octopus II Program, in which participated several groups of experts from Moldovan legal institutions, were developed several recommendations, which are to be implemented in order to improve the situation in the field of fighting corruption and organized crime.

The programs launched by the United Nations made possible to accomplish a thorough study of the phenomenon of corruption in Moldova, determine the reasons of spread of corruption, find ways to prevent this phenomenon, accomplish a series of activities that contribute to the improvement of the situation related to eradication of corruption in the Republic of Moldova.

The practice has demonstrated that the fight against the phenomenon of corruption brings immediate profits. The incomes originating from the eradication of corruption overpass the expenses and as result real conditions for multilateral development of the state appear.

It is obvious that the final goal of eradication of corruption can be achieved only in the case of existence of the three core elements:

1. Will;
2. Presence of appropriate legislation;
3. Presence of a mechanism for implementing the legislation.

It is also crucial that all the capable forces from the society involve in the process of eradication of corruption.

Presently a workgroup from „Transparency International – Moldova” activates within the United Nations Development Program, 01/002 – “Consolidation of national capacities for fighting corruption in the Republic of Moldova”.

We believe that the goals of an efficient fight against corruption and of consolidation of national capacities in fighting corruption could be achieved through elaboration and adoption of a National Anti-Corruption Program, in whose accomplishment nongovernmental organizations as well as the civil society would be involved.

In this context, „Transparency International – Moldova” developed a set of proposals, which could be included in the National Anti-corruption Program. The development of the proposals was made in accordance with the provisions of the Program of activity of the Government, initiatives of the Stability Pact for the South-Eastern Europe, European Conventions on corruption, the main principles of fighting against corruption developed by the Committee of Ministers of the Council of Europe, the experience of some countries in this field, as well as gaps in the activity of eradication of corruption.

The structure of the engagements of the Anti-corruption initiative of the Stability Pact for the South-Eastern Europe was taken as base for the elaboration of proposals for the National Anti-corruption Program. The proposals were divided in 5 sections which include more than 50 measures. These sections and some of the measures are:

- I. Adoption and implementation of European and international instruments, deepening of international collaboration:
  - Ratification of the Civil and Criminal Conventions on corruption, European Convention on money laundering, trace, sequestration and confiscation of the incomes originated from illegal activities. Adherence of the Republic of Moldova to other international mechanisms oriented in eradication of the corruption phenomenon.
  - Efficient collaboration in the field of fighting corruption on international scale, efficient activity within European structures (the Stability Pact for the South-Eastern Europe, GRECO, etc.);
  - Assistance of specialized international institutions in the accomplishment of an expert examination of the legislation and measures of fighting corruption and traffic of influence.
- II. Promotion of an efficient government and a confident public administration:
  - Implementation of programs for public officials that offer the study of the legislation that settles the activity of the public officials and their responsibilities regarding the corruption and other infractions committed by public officials;
  - Contest-based employment for public positions, implementation of an obligatory system of professional promotion;
  - Promotion of an efficient, open and transparent process of acquisitions in accordance with the European and international standards;
  - Reduction of the personnel employed in the public sector through the elimination of the inefficient structures and doubled activity;
  - Assurance of the public workers with competitive salaries;
  - Elaboration and adoption of ethic (moral) codes that specifies the expected behavior of the different types of public employees;
  - Development and adoption of a mechanism of declaration and control of the incomes of the state and public officials;

### III. Strengthening legislation and promotion of the rule of law:

- Adjustment of the national legislation to the European Convention on corruption;
- Withdrawal of the immunity of some categories of civil servants regarding some infractions related to corruption;
- Involvement of the educational system, civil society, mass media in the prevention of corruption;
- Independence, autonomy and protection of the units specialized in anti-corruption activities;
- Modification of the Criminal Code regarding corruption;
- Responsibility for money laundering, evasion of customs taxes;
- Increase of the penalties for fiscal evasions;
- Recognition as evidence of the acquired goods in accordance with the Law regarding the activity of operative investigations;
- Stimulation and assurance of protection for the persons assisting the legal institutions in fighting corruption activity;
- Judiciary control over the activities of the prosecutor's offices, subordination of the General Prosecutor's Office to the Ministry of Justice;
- Implementation of the mechanism for fighting money laundering;

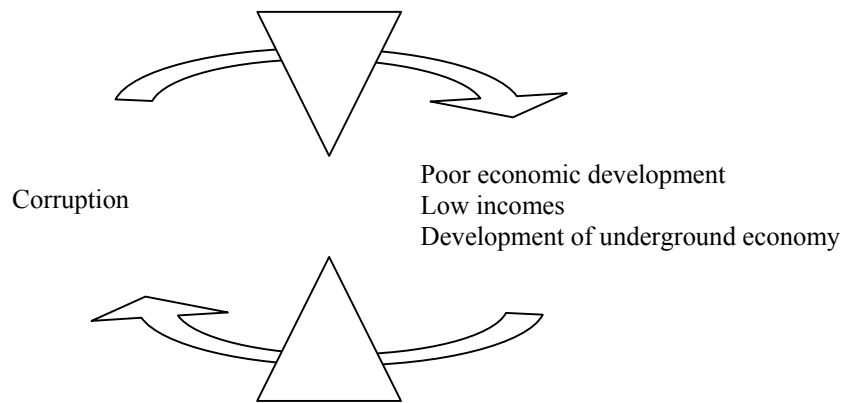
### IV. Promotion of transparency and integrity within businesses:

- Implementation of the mechanism of reintegration of the capital from the underground economy;
- Reduction of fiscal burden of the economic agents;
- Implementation of modern standards for accounting, internal and external audit systems;
- Real protection of legal economic interests of economic agents and state;
- Transparency of the activities (privatization of assets, distribution of humanitarian assistance, contests, etc.);

### V. Promotion of an active civil society:

- Implication of the civil society in the prevention of corruption activity;
- Encouragement of research in the field of corruption;
- Access of the civil society to the information regarding the activity of the executive institution;
- Promotion of moral values.

The measures of the program are designed for the prevention and eradication of corruption on both ways, so that from one side – from a weak economy to stop the deepening of corruption and from the other side – to refuse corruption in order not to weaken the economy according to the chart:



The accomplishment of these and other activities within the National Anti-Corruption Program would contribute to the consolidation of the national capacities in fighting corruption, to a significant reduction of the level of corruption and as a consequence to the development of the country.

Thank you for your attention.

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<sup>i</sup> Jean-Cristofphe Maur and Patrick A. Messerlin, Which Trade Agreement in the South-Eastern Europe? Technical Report.

<sup>ii</sup> Statement made by the WTO Representative At Stability Pact for South Eastern Europe, Geneva, 18 January 2001

<sup>iii</sup> Din aprilie 1997 până în prezent au fost încheiate nouă acorduri preferențiale bilaterale, dintre care cinci deja funcționează completamente.

<sup>iviviv</sup> The Road to Stability and Prosperity in the South-Eastern Europe: a regional strategy paper. March 1, 2000.